

109TH CONGRESS
1ST SESSION

S. _____

To authorize appropriations to the Secretary of Commerce for the Magnuson-Stevens Fishery Conservation and Management Act for fiscal years 2006 through 2012, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER —, 2005

Mr. STEVENS (for himself, Mr. INOUE , Ms. SNOWE, Ms. CANTWELL, and Mr. VITTER) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To authorize appropriations to the Secretary of Commerce for the Magnuson-Stevens Fishery Conservation and Management Act for fiscal years 2006 through 2012, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Magnuson-Stevens Fishery Conservation and Manage-
6 ment Reauthorization Act of 2005”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Amendment of Magnuson-Stevens Fishery Conservation and Management Act.
- Sec. 3. Changes in definitions.
- Sec. 4. Highly migratory species.
- Sec. 5. Total allowable level of foreign fishing.
- Sec. 6. Western Pacific Sustainable Fisheries Fund.
- Sec. 7. Authorization of appropriations.

TITLE I—CONSERVATION AND MANAGEMENT

- Sec. 101. Cumulative impacts.
- Sec. 102. Caribbean Council jurisdiction.
- Sec. 103. Regional fishery management councils.
- Sec. 104. Fishery management plan requirements.
- Sec. 105. Fishery management plan discretionary provisions.
- Sec. 106. Limited access privilege programs.
- Sec. 107. Environmental review process.
- Sec. 108. Emergency regulations.
- Sec. 109. Western Pacific community development.
- Sec. 110. Western Alaska Community Development Quota Program.
- Sec. 111. Secretarial action on State groundfish fishing.
- Sec. 112. Joint enforcement agreements.
- Sec. 113. Transition to sustainable fisheries.
- Sec. 114. Regional coastal disaster assistance, transition, and recovery program.
- Sec. 115. Bycatch reduction engineering program.

TITLE II—INFORMATION AND RESEARCH

- Sec. 201. Recreational fisheries information.
- Sec. 202. Collection of information.
- Sec. 203. Access to certain information.
- Sec. 204. Cooperative research and management program.
- Sec. 205. Herring study.
- Sec. 206. Restoration study.
- Sec. 207. Western Pacific fishery demonstration projects.
- Sec. 208. Fisheries Conservation and Management Fund.
- Sec. 209. Use of fishery finance program and capital construction fund for sustainable purposes.

TITLE III—OTHER FISHERIES STATUTES

- Sec. 301. Amendments to Northern Pacific Halibut Act.
- Sec. 302. Reauthorization of other fisheries acts.

TITLE IV—INTERNATIONAL

- Sec. 401. International monitoring and compliance.
- Sec. 402. Finding with respect to illegal, unreported, and unregulated fishing.
- Sec. 403. Action to end illegal, unreported, or unregulated fishing and reduce bycatch of protected marine species.
- Sec. 404. Monitoring of Pacific insular area fisheries.
- Sec. 405. Reauthorization of Atlantic Tunas Convention Act.
- Sec. 406. International overfishing and domestic equity.

TITLE V—IMPLEMENTATION OF WESTERN AND CENTRAL PACIFIC FISHERIES
CONVENTION

- Sec. 501. Short title.
- Sec. 502. Definitions.
- Sec. 503. Appointment of United States commissioners.
- Sec. 504. Authority and responsibility of the Secretary of State.
- Sec. 505. Rulemaking authority of the Secretary of Commerce.
- Sec. 506. Enforcement.
- Sec. 507. Penalties.
- Sec. 508. Cooperation in carrying out convention.
- Sec. 509. Territorial participation.
- Sec. 510. Authorization of appropriations.

TITLE VI—PACIFIC WHITING

- Sec. 601. Short title.
- Sec. 602. Definitions.
- Sec. 603. United States representation on joint management committee.
- Sec. 604. United States representation on the scientific review group.
- Sec. 605. United States representation on joint technical committee.
- Sec. 606. United States representation on advisory panel.
- Sec. 607. Responsibilities of the Secretary.
- Sec. 608. Rulemaking.
- Sec. 609. Administrative matters.
- Sec. 610. Enforcement.
- Sec. 611. Authorization of appropriations.

1 **SEC. 2. AMENDMENT OF MAGNUSON-STEVEN'S FISHERY**
2 **CONSERVATION AND MANAGEMENT ACT.**

3 Except as otherwise expressly provided, whenever in
4 this Act an amendment or repeal is expressed in terms
5 of an amendment to, or repeal of, a section or other provi-
6 sion, the reference shall be considered to be made to a
7 section or other provision of the Magnuson-Stevens Fish-
8 ery Conservation and Management Act (16 U.S.C. 1801
9 et seq.).

10 **SEC. 3. CHANGES IN DEFINITIONS.**

11 (a) IN GENERAL.—Section 3 (16 U.S.C. 1802) is
12 amended—

1 (1) by inserting after paragraph (6) the fol-
2 lowing:

3 “(6A) The term ‘confidential information’
4 means—

5 “(A) trade secrets; or

6 “(B) commercial or financial information
7 the disclosure of which is likely to result in sub-
8 stantial harm to the competitive position of the
9 person who submitted the information to the
10 Secretary.”;

11 (2) by inserting after paragraph (13) the fol-
12 lowing:

13 “(13B) the term ‘regional fishery association’
14 means an association formed for the mutual benefit
15 of members comprising persons engaging in the har-
16 vest or processing of fishery resources in a specific
17 geographic region or subregion who otherwise own or
18 operate businesses substantially dependent upon a
19 fishery to meet social and economic needs in that re-
20 gion or subregion.”;

21 (3) by inserting after paragraph (23) the fol-
22 lowing:

23 “(23A) The term ‘limited access privilege’—

24 “(A) means a Federal permit, issued as
25 part of a limited access system under section

1 303A to harvest a quantity of fish that may be
2 received or held for exclusive use by a person;
3 and

4 “(B) includes an individual fishing quota;
5 but

6 “(C) does not include community develop-
7 ment quotas as described in section 305(i).”;
8 and

9 (4) by inserting after paragraph (27) the fol-
10 lowing:

11 “(27A) The term ‘observer information’ means
12 any information collected, observed, retrieved, or cre-
13 ated by an observer or electronic monitoring system
14 pursuant to authorization by the Secretary, or col-
15 lected as part of a cooperative research initiative, in-
16 cluding fish harvest or processing observations, fish
17 sampling or weighing data, vessel logbook data, ves-
18 sel or processor-specific information (including any
19 safety, location, or operating condition observations),
20 and video, audio, photographic, or written docu-
21 ments.”.

22 (b) REDESIGNATION.—Paragraphs (1) through (45)
23 of section 3 (16 U.S.C. 1802), as amended by subsection
24 (a), are redesignated as paragraphs (1) thorough (49), re-
25 spectively.

1 (b) CONFORMING AMENDMENTS.—

2 (1) The following provisions of the Act are
3 amended by striking “an individual fishing quota”
4 and inserting “a limited access privilege”:

5 (A) Section 304(c)(3) (16
6 U.S.C.1854(c)(3)).

7 (B) Section 304(d)(2)(A)(i) (16
8 U.S.C.1854(d)(2)(A)(i)).

9 (C) Section 402(b)(1)(D) (16 U.S.C.
10 1881a(b)(1)(D)).

11 (D) Section 407(a)(1)(D), (c)(1), and
12 (c)(2)(B) (16 U.S.C. 1883(a)(1)(D), (c)(1), and
13 (c)(2)(B)).

14 (2) Section 305(h)(1) (16 U.S.C. 1855(h)(1)) is
15 amended by striking “individual fishing quotas,”
16 and inserting “limited access privileges,”.

17 **SEC. 4. HIGHLY MIGRATORY SPECIES.**

18 Section 102 (16 U.S.C. 1912) is amended—

19 (1) by inserting “(a) IN GENERAL.—” before
20 “The”; and

21 (2) by adding at the end the following:

22 “(b) TRADITIONAL PARTICIPATION.—For fisheries
23 being managed under an international fisheries agreement
24 to which the United States is a party, Council or Secre-
25 tarial action, if any, shall reflect traditional participation

1 in the fishery, relative to other Nations, by fishermen of
2 the United States on fishing vessels of the United States.

3 “(c) PROMOTION OF STOCK MANAGEMENT.—If a rel-
4 evant international fisheries organization does not have a
5 process for developing a formal plan to rebuild a depleted
6 stock, an overfished stock, or a stock that is approaching
7 a condition of being overfished, the provisions of this Act
8 in this regard shall be communicated to and promoted by
9 the United States in the international or regional fisheries
10 organization.”.

11 **SEC. 5. TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING.**

12 Section 201(d) (16 U.S.C. 1821(d)) is amended—

13 (1) by striking “shall be” and inserting “is”;

14 (2) by striking “will not” and inserting “can-
15 not, or will not,”;

16 (3) by inserting after “Act.” the following: “Al-
17 locations of the total allowable level of foreign fish-
18 ing are discretionary, except that the total allowable
19 level shall be zero for fisheries determined by the
20 secretary to have adequate or excess harvest capac-
21 ity.”

22 **SEC. 6. WESTERN PACIFIC SUSTAINABLE FISHERIES FUND.**

23 Section 204(e) (16 U.S.C. 1824(e)(7)) is amended—

24 (1) by inserting “and any funds or contribu-
25 tions received in support of conservation and man-

1 agement objectives under a marine conservation
2 plan” after “agreement” in paragraph (7);

3 (2) by striking “authority, after payment of di-
4 rect costs of the enforcement action to all entities in-
5 volved in such action,” in paragraph (8); and

6 (3) by inserting after “paragraph (4).” in para-
7 graph (8) “In the case of violations by foreign ves-
8 sels occurring within the exclusive economic zones
9 off Midway Atoll, Johnston Atoll, Kingman Reef,
10 Palmyra Atoll, Jarvis, Howland, Baker, and Wake
11 Islands, amounts received by the Secretary attrib-
12 utable to fines and penalties imposed under this Act,
13 shall be deposited into the Western Pacific Sustain-
14 able Fisheries Fund established under paragraph (7)
15 of this subsection.”.

16 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

17 Section 4 (16 U.S.C. 1803) is amended to read as
18 follows:

19 **“SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

20 “There are authorized to be appropriated to the Sec-
21 retary to carry out the provisions of this Act—

22 “(1) \$328,004,000 for fiscal year 2006; and

23 “(2) such sums as may be necessary for fiscal
24 years 2007 through 2012.”.

1 **TITLE I—CONSERVATION AND**
2 **MANAGEMENT**

3 **SEC. 101. CUMULATIVE IMPACTS.**

4 (a) NATIONAL STANDARDS.—Section 301(a)(8) (16
5 U.S.C. 1851(a)(8)) is amended by inserting “by utilizing
6 economic and social data and assessment methods based
7 on the best economic and social information available,”
8 after “fishing communities”.

9 (b) CONTENTS OF PLANS.—Section 303(a)(9) (16
10 U.S.C. 1853(a)(9)) is amended by striking “describe the
11 likely effects, if any, of the conservation and management
12 measures on—” and inserting “analyze the likely effects,
13 if any, including the cumulative economic and social im-
14 pacts, of the conservation and management measures on,
15 and possible mitigation measures for—”.

16 **SEC. 102. CARIBBEAN COUNCIL JURISDICTION.**

17 Section 302(a)(1)(D) (16 U.S.C. 852(a)(1)(D)) is
18 amended by inserting “and of commonwealths, territories,
19 and possessions of the United States in the Caribbean
20 Sea” after “seaward of such States”.

21 **SEC. 103. REGIONAL FISHERY MANAGEMENT COUNCILS.**

22 (a) TRIBAL ALTERNATE ON PACIFIC COUNCIL.—Sec-
23 tion 302(b)(5) (16 U.S.C. 1852(b)(5)) is amended by add-
24 ing at the end thereof the following:

1 “(D) The tribal representative appointed under sub-
2 paragraph (A) may designate as an alternate, during the
3 period of the representative’s term, an individual knowl-
4 edgeable concerning tribal rights, tribal law, and the fish-
5 ery resources of the geographical area concerned.”.

6 (b) SCIENTIFIC AND STATISTICAL COMMITTEES.—
7 Section 302 (16 U.S.C. 1852) is amended—

8 (1) by striking so much of subsection (g) as
9 precedes paragraph (2) and inserting the following:
10 “(g) COMMITTEES AND ADVISORY PANELS.—

11 “(1)(A) Each Council shall establish, maintain,
12 and appoint the members of, a scientific and statis-
13 tical committee to assist it in the development, col-
14 lection, evaluation, and peer review of such statis-
15 tical, biological, economic, social, and other scientific
16 information as is relevant to such Council’s develop-
17 ment and amendment of any fishery management
18 plan.

19 “(B) Each scientific and statistical committee
20 shall provide its Council ongoing scientific advice for
21 fishery management decisions, including rec-
22 ommendations for acceptable biological catch or opti-
23 mum yield, and reports on stock status and health,
24 bycatch, habitat status, socio-economic impacts of

1 management measures, and sustainability of fishing
2 practices.

3 “(C) Members appointed by the Councils to the
4 scientific and statistical committees shall be Federal
5 employees, State employees, academicians, or inde-
6 pendent experts with strong scientific or technical
7 credentials and experience.

8 “(D) The Secretary and each Council may es-
9 tablish a peer review process for that Council, devel-
10 oped in consultation with the Council coordination
11 committee for scientific information used to advise
12 the Council about the conservation and management
13 of the fishery. The review process, which may in-
14 clude existing committees or panels, is deemed to
15 satisfy the requirements of the guidelines issued pur-
16 suant to section 515 of the Treasury and General
17 Government Appropriations Act for Fiscal year 2001
18 (Public Law 106-554—Appendix C; 114 Stat.
19 2763A-153).

20 “(E) In addition to the provisions of sec-
21 tion 302(f)(7), the Secretary may pay a stipend
22 to members of the scientific and statistical com-
23 mittees or advisory panels who are not em-
24 ployed by the Federal government or a State
25 marine fisheries agency.”; and

1 (2) by striking “other” in paragraph (2); and

2 (3) by resetting the left margin of paragraphs

3 (2) through (5) 2 ems from the left.

4 (c) COUNCIL FUNCTIONS.—Section 302(h) (16
5 U.S.C. 1852(h)) is amended—

6 (1) by striking “and” after the semicolon in
7 paragraph (5);

8 (2) by redesignating paragraph (6) as para-
9 graph (7); and

10 (3) by inserting after paragraph (5) the fol-
11 lowing:

12 “(6) adopt annual catch limits for each of its
13 managed fisheries after considering the rec-
14 ommendations of its scientific and statistical com-
15 mittee or other appropriate scientific body; and”.

16 (d) REGULAR AND EMERGENCY MEETINGS.—The
17 first sentence of section 302(i)(2)(C) (16 U.S.C.
18 1852(i)(2)(C)) is amended—

19 (1) by striking “published in local newspapers”
20 and inserting “provided by any means that will re-
21 sult in wide publicity (except that e-mail notification
22 and website postings alone are not sufficient)”; and

23 (2) by striking “fishery) and such notice may
24 be given by such other means as will result in wide
25 publicity.” and inserting “fishery).”.

1 (e) CLOSED MEETINGS.—Section 302(i)(3)(B) (16
2 U.S.C. 1852(i)(3)(B)) is amended by striking “notify local
3 newspapers” and inserting “provide notice by any means
4 that will result in wide publicity”.

5 (f) TRAINING.—Section 302 (16 U.S.C. 1852) is
6 amended by adding at the end the following:

7 “(k) COUNCIL TRAINING PROGRAM.—

8 “(1) TRAINING COURSE.—Within 6 months
9 after the date of enactment of the Magnuson-Ste-
10 vens Fishery Conservation and Management Reau-
11 thorization Act of 2005, the Secretary, in consulta-
12 tion with the Councils and the National Sea Grant
13 College Program, shall develop a training course for
14 newly appointed Council members. The course may
15 cover a variety of topics relevant to matters before
16 the Councils, including—

17 “(A) fishery science and basic stock assess-
18 ment methods;

19 “(B) fishery management techniques, data
20 needs, and Council procedures;

21 “(C) social science and fishery economics;

22 “(D) tribal treaty rights and native cus-
23 toms, access, and other rights related to West-
24 ern Pacific indigenous communities;

1 “(E) legal requirements of this Act, includ-
2 ing conflict of interest and disclosure provisions
3 of this section and related policies;

4 “(F) other relevant legal and regulatory
5 requirements, including the National Environ-
6 mental Policy Act (42 U.S.C. 4321 et seq.);

7 “(G) public process for development of
8 fishery management plans; and

9 “(H) other topics suggested by the Coun-
10 cil.

11 “(2) MEMBER TRAINING.—The training course
12 shall be available to both new and existing Council
13 members, and may be made available to committee
14 or advisory panel members as resources allow.

15 “(I) COUNCIL COORDINATION COMMITTEE.—The
16 Councils may establish a Council coordination committee
17 consisting of the chairs, vice chairs, and executive direc-
18 tors of each of the 8 Councils described in subsection
19 (a)(1), or other Council members or staff, in order to dis-
20 cuss issues of relevance to all Councils, including issues
21 related to the implementation of this Act.”.

22 (g) PROCEDURAL MATTERS.—Section 302(i) (16
23 U.S.C. 1852(i)) is amended—

24 (1) by striking “to the Councils or to the sci-
25 entific and statistical committees or advisory panels

1 established under subsection (g)” in paragraph (1)
2 and inserting “to the Councils, the Council coordina-
3 tion committee established under subsection (l), or
4 to the scientific and statistical committees or other
5 committees or advisory panels established under sub-
6 section (g)”;

7 (2) by striking “of a Council, and of the sci-
8 entific and statistical committee and advisory panels
9 established under subsection (g)” in paragraph (2)
10 and inserting “of a Council, of the Council coordina-
11 tion committee established under subsection (l), and
12 of the scientific and statistical committees or other
13 committees or advisory panels established under sub-
14 section (g)”;

15 (3) by inserting “other committee,” in para-
16 graph (3)(A) after “committee,”.

17 (h) CONFLICTS OF INTEREST.—Section 302(j) (16
18 U.S.C. 1852(j)) is amended—

19 (1) by striking “and” after the semicolon in
20 paragraph (2)(B);

21 (2) by inserting after paragraph (2)(C) the fol-
22 lowing:

23 “(D) the members of any fishing, processing, or
24 marketing association if the individual is serving as

1 an employee or contractor or otherwise receiving
2 compensation from the association; and

3 “(E) any entity or other individual from whom
4 the individual is receiving or will receive compensa-
5 tion of any kind;”

6 (3) by striking subparagraph (B) of paragraph
7 (5) and inserting the following:

8 “(B) be kept on file by the Council and made
9 available on the Internet and for public inspection at
10 the Council offices during reasonable times; and”;
11 and

12 (4) by adding at the end the following:

13 “(9) On January 1, 2008, and annually thereafter,
14 the Secretary shall submit a report to the Senate Com-
15 mittee on Commerce, Science, and Transportation and the
16 House of Representatives Committee on Resources on ac-
17 tion taken by the Secretary and the Councils to implement
18 the disclosure of financial interest and recusal require-
19 ments of this subsection.”.

20 **SEC. 104. FISHERY MANAGEMENT PLAN REQUIREMENTS.**

21 (a) IN GENERAL.—Section 303(a) (16 U.S.C.
22 1853(a)) is amended—

23 (1) striking “and charter fishing” in paragraph
24 (5) and inserting “charter fishing, and fish proc-
25 essing”;

1 (2) by inserting “economic information nec-
2 essary to meet the requirements of this Act,” in
3 paragraph (5) after “number of hauls,”;

4 (3) by striking “and” after the semicolon in
5 paragraph (13);

6 (4) by striking “fishery.” in paragraph (14)
7 and inserting “fishery; and”; and

8 (5) by adding at the end the following:

9 “(15) specify, in the plan or implementing regu-
10 lations, annual catch limits, which shall be estab-
11 lished by the Council or Secretary based on the best
12 scientific information available at a level that does
13 not exceed optimum yield, and, for the purposes of
14 which harvests exceeding the specified annual catch
15 limit (including the specified annual catch limit for
16 a sector) shall be deducted from the following year’s
17 annual catch limit (including that sector).”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 subsection (a)(5) shall take effect 2 years after the date
20 of enactment of this Act.

21 **SEC. 105. FISHERY MANAGEMENT PLAN DISCRETIONARY**
22 **PROVISIONS.**

23 Section 303(b) (16 U.S.C. 1853(b)) is amended—

24 (1) by striking paragraph (6) and inserting the
25 following:

1 “(6) establish a limited access system for the
2 fishery in order to achieve optimum yield if, in devel-
3 oping such system, the Council and the Secretary
4 take into account—

5 “(A) the conservation requirements of this
6 Act with respect to the fishery;

7 “(B) present participation in the fishery;

8 “(C) historical fishing practices in, and de-
9 pendence on, the fishery;

10 “(D) the economics of the fishery;

11 “(E) the capability of fishing vessels used
12 in the fishery to engage in other fisheries;

13 “(F) the cultural and social framework rel-
14 evant to the fishery and any affected fishing
15 communities;

16 “(G) the fair and equitable distribution of
17 access privileges to a public resource; and

18 “(H) any other relevant considerations;”;

19 (2) by striking “(other than economic data)” in
20 paragraph (7);

21 (3) by striking “and” after the semicolon in
22 paragraph (11); and

23 (4) by redesignating paragraph (12) as para-
24 graph (13) and inserting after paragraph (11) the
25 following:

1 “(12) establish a process for complying with the
2 National Environmental Policy Act (42 U.S.C. 4321
3 et seq.) pursuant to section 304(h) of this Act;
4 and”.

5 **SEC. 106. LIMITED ACCESS PRIVILEGE PROGRAMS.**

6 (a) IN GENERAL.—Title III (16 U.S.C. 1851 et seq.)
7 is amended—

8 (1) by striking section 303(d); and

9 (2) by inserting after section 303 the following:

10 **“SEC. 303A. LIMITED ACCESS PRIVILEGE PROGRAMS.**

11 “(a) IN GENERAL.—After the date of enactment of
12 the Magnuson-Stevens Fishery Conservation and Manage-
13 ment Reauthorization Act of 2005, a Council may submit,
14 and the Secretary may approve, for a fishery that has been
15 managed under a limited access system for at least 1 year,
16 a limited access privilege program to harvest fish, if the
17 program meets the requirements of this section.

18 “(b) NO CREATION OF RIGHT, TITLE, OR INTER-
19 EST.—A limited access system, limited access privilege,
20 quota share, or other authorization established, imple-
21 mented, or managed under this Act—

22 “(1) shall be considered a permit for the pur-
23 poses of sections 307, 308, and 309;

24 “(2) may be revoked, limited, or modified at
25 any time in accordance with this Act, including rev-

1 ocation for failure to comply with the terms of the
2 plan or if the system is found to have jeopardized
3 the sustainability of the stock or the safety of fisher-
4 men;

5 “(3) shall not confer any right of compensation
6 to the holder of such limited access privilege, quota
7 share, or other such limited access system authoriza-
8 tion if it is revoked, limited, or modified;

9 “(4) shall not create, or be construed to create,
10 any right, title, or interest in or to any fish before
11 the fish is harvested or purchased by the holder; and

12 “(5) shall be considered a grant of permission
13 to the holder of the limited access privilege or quota
14 share to engage in activities permitted by such lim-
15 ited access privilege or quota share.

16 “(c) LIMITED ACCESS PRIVILEGES TO HARVEST
17 FISH.—

18 “(1) IN GENERAL.—In addition to complying
19 with the other requirements of this Act, any limited
20 access privilege program to harvest fish submitted
21 by a Council or approved by the Secretary under
22 this section—

23 “(A) shall—

1 “(i) if established in a fishery that is
2 overfished or subject to a rebuilding plan,
3 assist in its rebuilding; and

4 “(ii) if established in a fishery that is
5 determined by the Secretary or the Council
6 to have excess capacity, contribute to re-
7 ducing capacity;

8 “(B) shall promote—

9 “(i) the safety of human life at sea;
10 and

11 “(ii) the conservation and manage-
12 ment of the fishery;

13 “(C) shall prohibit any person other than
14 a United States citizen, a corporation, partner-
15 ship, or other entity established under the laws
16 of the United States or any State, a permanent
17 resident alien, a fishing community, or a re-
18 gional fishery association from acquiring a
19 privilege to harvest fish; and

20 “(D) shall require that all fish harvested
21 under a limited access privilege program be
22 processed by vessels of the United States in
23 United States waters or on United States soil
24 (including any territory of the United States).

25 “(2) FISHING COMMUNITIES.—

1 “(A) IN GENERAL.—To be eligible to par-
2 ticipate in a limited access privilege program to
3 harvest fish, a fishing community shall—

4 “(i) be located within the management
5 area of the relevant Council;

6 “(ii) meet criteria developed by the
7 relevant Council, approved by the Sec-
8 retary, and published in the Federal Reg-
9 ister;

10 “(iii) consist of residents who conduct
11 commercial or recreational fishing, proc-
12 essing, or fishery-dependent support busi-
13 nesses within the Council’s management
14 area; and

15 “(iv) develop and submit a community
16 sustainability plan to the Council and the
17 Secretary for approval based on criteria
18 developed by the Council that have been
19 approved by the Secretary and published in
20 the Federal Register.

21 “(B) PARTICIPATION CRITERIA.—In devel-
22 oping participation criteria for eligible commu-
23 nities and regional fishery associations under
24 this paragraph, a Council shall base the criteria
25 on traditional fishing or processing practices in,

1 and dependence on, the fishery, the cultural
2 and social framework relevant to the fishery,
3 economic barriers to access to fishery, and the
4 existence and severity of projected economic
5 and social impacts associated with implementa-
6 tion of limited access privilege programs on
7 harvesters, captains, crew, processors, and
8 other businesses substantially dependent upon
9 the fishery in the region or subregion.

10 “(3) ALLOCATION.—In developing a limited ac-
11 cess privilege program to harvest fish a Council or
12 the Secretary shall—

13 “(A) establish procedures to ensure fair
14 and equitable initial allocations, including con-
15 sideration of—

16 “(i) current and historical harvests;

17 “(ii) employment in the harvesting
18 and processing sectors;

19 “(iii) investments in, and dependence
20 upon, the fishery; and

21 “(iv) the current and historical par-
22 ticipation of fishing communities;

23 “(B) to the extent practicable, consider the
24 basic cultural and social framework of the fish-
25 ery, especially through the development of poli-

1 cies to promote the sustained participation of
2 small owner-operated fishing vessels and fishing
3 communities that depend on the fisheries, in-
4 cluding regional or port-specific landing or de-
5 livery requirements;

6 “(C) include measures to assist, when nec-
7 essary and appropriate, entry-level and small
8 vessel operators, captains, crew, and fishing
9 communities through set-asides of harvesting
10 allocations, including providing privileges and,
11 where appropriate, recommending the provision
12 of economic assistance in the purchase of lim-
13 ited access privileges to harvest fish;

14 “(D) ensure that limited access privilege
15 holders do not acquire an excessive share of the
16 total limited access privileges in the program
17 by—

18 “(i) establishing a maximum share,
19 expressed as a percentage of the total lim-
20 ited access privileges, that a limited access
21 privilege holder is permitted to own; and

22 “(ii) establishing any other limitations
23 or measures necessary to prevent an in-
24 equitable concentration of limited access
25 privileges;

1 “(E) establish procedures to minimize geo-
2 graphic or other consolidation in both the har-
3 vesting and processing sectors of the fishery;
4 and

5 “(F) authorize limited access privileges to
6 harvest fish to be held by or issued under the
7 system to persons who substantially participate
8 in the fishery, as specified by the Council, in-
9 cluding, as appropriate, fishing vessel owners,
10 vessel captains, vessel crew members, fishing
11 communities, and regional fishery associations.

12 “(4) PROGRAM INITIATION.—

13 “(A) CERTIFICATION REQUIREMENT.—Ex-
14 cept as provided in subparagraph (D), a Coun-
15 cil may initiate a fishery management plan or
16 amendment to establish a limited access privi-
17 lege program to harvest fish on its own initia-
18 tive if the Secretary has certified an appro-
19 priate petition.

20 “(B) INITIATION REQUEST.—A group of
21 fishermen constituting more than 50 percent of
22 the permit holders, or holding more than 50
23 percent of the allocation, in the fishery for
24 which a limited access privilege program to har-
25 vest fish is sought, may submit a petition to the

1 Secretary requesting that the relevant Council
2 or Councils with authority over the fishery be
3 authorized to initiate the development of the
4 program. Any such petition shall clearly state
5 the fishery to which the limited access privilege
6 program would apply.

7 “(C) CERTIFICATION BY SECRETARY.—
8 Upon the receipt of any such petition, the Sec-
9 retary shall review all of the signatures on the
10 petition and, if the Secretary determines that
11 the signatures on the petition represent more
12 than 50 percent of the permit holders, or hold-
13 ers of more than 50 percent of the allocation,
14 in the fishery, the Secretary shall certify the pe-
15 tition to the appropriate Council or Councils.

16 “(D) NEW ENGLAND AND GULF REF-
17 ERENDUM.—

18 “(i) Except as provided in clause (iii)
19 for the Gulf of Mexico commercial red
20 snapper fishery, the New England and
21 Gulf Councils may not submit, and the
22 Secretary may not approve or implement, a
23 fishery management plan or amendment
24 that creates a fishing quota system, includ-
25 ing a Secretarial plan, unless such a sys-

1 tem, as ultimately developed, has been ap-
2 proved by more than $\frac{2}{3}$ of those voting in
3 a referendum among eligible permit hold-
4 ers. If a fishing quota system fails to be
5 approved by the requisite number of those
6 voting, it may be revised and submitted for
7 approval in a subsequent referendum.

8 “(ii) The Secretary shall conduct a
9 referendum under this subparagraph, in-
10 cluding notifying all persons eligible to
11 participate in the referendum and making
12 available to them information concerning
13 the schedule, procedures, and eligibility re-
14 quirements for the referendum process and
15 the proposed fishing quota system. Within
16 1 year after the date of enactment of the
17 Magnuson-Stevens Fishery Conservation
18 and Management Reauthorization Act of
19 2005, the Secretary shall publish guide-
20 lines and procedures to determine proce-
21 dures and voting eligibility requirements
22 for referenda and to conduct such
23 referenda in a fair and equitable manner.

24 “(iii) The provisions of section 407(c)
25 of this Act shall apply in lieu of this sub-

1 paragraph for any fishing quota system for
2 the Gulf of Mexico commercial red snapper
3 fishery.

4 “(iv) Chapter 35 of title 44, United
5 States Code, (commonly known as the ‘Pa-
6 perwork Reduction Act’) does not apply to
7 the referenda conducted under this sub-
8 paragraph.”.

9 “(5) PROGRAM REQUIREMENTS.—Any such lim-
10 ited access privilege program to harvest fish shall—

11 “(A) specify the goals of the program;

12 “(B) include provisions for the regular
13 monitoring and review by the Council and the
14 Secretary of the operations of the program, in-
15 cluding determined progress in meeting the
16 goals of the program and this Act, and any nec-
17 essary modification of the program, with a for-
18 mal and detailed review 5 years after the estab-
19 lishment of the program and every 5 years
20 thereafter;

21 “(C) include an effective system for en-
22 forcement, monitoring, and management of the
23 program, including the use of observers;

24 “(D) include an appeals process for admin-
25 istrative review of determinations with respect

1 to the Secretary's decisions regarding adminis-
2 tration of the limited access privilege program;

3 “(E) provide for the establishment by the
4 Secretary, in consultation with the Department
5 of Justice and the Federal Trade Commission,
6 for a mandatory information collection and re-
7 view process to provide any and all information
8 necessary for the Department of Justice and
9 the Federal Trade Commission to determine
10 whether any illegal acts of anti-competition,
11 anti-trust, price collusion, or price fixing have
12 occurred among regional fishery associations
13 persons receiving limited access privileges to
14 harvest fish under the program; and

15 “(F) provide for the revocation by the Sec-
16 retary of limited access privileges held by any
17 person found to have violated the antitrust laws
18 of the United States.

19 “(6) TRANSFERABILITY.—In establishing a lim-
20 ited access privilege program, a Council shall—

21 “(A) establish a policy on the transfer-
22 ability of limited access privilege shares
23 (through sale or lease), including a policy on
24 any conditions that apply to the transferability
25 of limited access privilege shares that is con-

1 sistent with the policies adopted by the Council
2 for the fishery under paragraph (3); and

3 “(B) establish criteria for the approval and
4 monitoring of transfers (including sales and
5 leases) of limited access privilege shares.

6 “(7) PREPARATION AND IMPLEMENTATION OF
7 SECRETARIAL PLANS.—This subsection also applies
8 to a plan prepared and implemented by the Sec-
9 retary under section 304(g). For the purpose of ap-
10 plying this subsection to such a plan—

11 “(A) the term ‘Secretary’ shall be sub-
12 stituted for the term ‘Council’; and

13 “(B) paragraphs (2)(A), (4)(A), and
14 (4)(C) shall not apply.

15 “(8) NO WAIVER.—Nothing in this Act shall
16 constitute a waiver, either express or implied, of the
17 antitrust laws of the United States.

18 “(d) AUCTION AND OTHER PROGRAMS.—In estab-
19 lishing a limited access privilege program, a Council may
20 consider, and provide for, if appropriate, an auction sys-
21 tem or other program to collect royalties for the initial
22 distribution of allocations in a limited access privilege pro-
23 gram if—

24 “(1) the system or program is administered in
25 such a way that the resulting distribution of limited

1 access privilege shares meets the program require-
2 ments of subsection (c)(3)(A); and

3 “(2) revenues generated through such a royalty
4 program are deposited in the Limited Access System
5 Administration Fund established by section
6 305(h)(5)(B) and available subject to annual appro-
7 priations.

8 “(e) COST RECOVERY.—In establishing a limited ac-
9 cess privilege program, a Council shall—

10 “(1) develop a methodology and the means to
11 identify and assess the management, science, data
12 collection, observer coverage, and enforcement pro-
13 grams that are directly related to and in support of
14 the program; and

15 “(2) provide, under section 304(d)(2), for a
16 program of fees paid by limited access privilege hold-
17 ers that will cover the costs of management, science,
18 data collection and analysis, observer coverage, and
19 enforcement activities.

20 “(f) LIMITED ACCESS PRIVILEGE ASSISTED PUR-
21 CHASE PROGRAM.—

22 “(1) IN GENERAL.—A Council may submit, and
23 the Secretary may approve and implement, a pro-
24 gram which reserves up to 25 percent of any fees
25 collected from a fishery under section 304(d)(2) to

1 be used, pursuant to section 1104A(a)(7) of the
2 Merchant Marine Act, 1936 (46 U.S.C. App.
3 1274(a)(7)), to issue obligations that aid in financ-
4 ing—

5 “(A) the purchase of limited access privi-
6 leges in that fishery by fishermen who fish from
7 small vessels; and

8 “(B) the first-time purchase of limited ac-
9 cess privileges in that fishery by entry level
10 fishermen.

11 “(2) ELIGIBILITY CRITERIA.—A Council mak-
12 ing a submission under paragraph (1) shall rec-
13 ommend criteria, consistent with the provisions of
14 this Act, that a fisherman must meet to qualify for
15 guarantees under subparagraphs (A) and (B) of
16 paragraph (1) and the portion of funds to be allo-
17 cated for guarantees under each subparagraph.

18 “(g) EFFECT ON CERTAIN EXISTING SHARES AND
19 PROGRAMS.—Nothing in this Act, or the amendments by
20 this Act, shall be construed to require a reallocation of
21 individual quota shares or processor quota shares or other
22 quota programs, including sector allocation, submitted by
23 a Council or approved by the Secretary or Congressional
24 action before the date of enactment of the Magnuson-Ste-

1 vens Fishery Conservation and Management Reauthoriza-
2 tion Act of 2005.”.

3 (b) FEES.—Section 304(d)(2)(A) (16 U.S.C.
4 1854(d)(2)(A)) is amended by striking “management and
5 enforcement” and inserting “management, data collection,
6 and enforcement”.

7 (c) CONFORMING AMENDMENT.—Section
8 304(d)(2)(C)(i) (16 U.S.C. 1854(d)(2)(C)(i)) is amended
9 by striking “section 305(h)(5)(B)” and all that follows
10 and inserting “section 305(h)(5)(B).”.

11 **SEC. 107. ENVIRONMENTAL REVIEW PROCESS.**

12 Section 304 (16 U.S.C. 1854) is amended by adding
13 at the end the following:

14 “(h) ENVIRONMENTAL REVIEW PROCESS.—

15 “(1) PROCEDURES.—The Secretary shall, in
16 consultation with the Councils and the Council on
17 Environmental Quality, revise and update agency
18 procedures for compliance with the National Envi-
19 ronmental Policy Act (42 U.S.C. 4231 et seq.). The
20 procedures shall—

21 “(A) conform to the time lines for review
22 and approval of fishery management plans and
23 plan amendments under this section; and

24 “(B) integrate applicable environmental
25 analysis process, including the time frames for

1 public input, with the process for the prepara-
2 tion and dissemination of fishery management
3 plans, plan amendments, and other actions
4 taken or approved pursuant to this Act in order
5 to provide for timely, clear and concise analysis
6 that is useful to decision makers and the public,
7 reduce extraneous paperwork, and effectively in-
8 volve the public.

9 “(2) USAGE.—The updated agency procedures
10 promulgated in accordance with this section used by
11 the Councils or the Secretary shall be the sole environ-
12 mental impact assessment process for fishery man-
13 agement plans, amendments, regulations, or other
14 actions taken or approved pursuant to this Act.

15 “(3) SCHEDULE FOR PROMULGATION OF FINAL
16 PROCEDURES.—The Secretary shall—

17 “(A) propose revised procedures within 12
18 months after the date of enactment of the Mag-
19 nuson-Stevens Fishery Conservation and Man-
20 agement Reauthorization Act of 2005;

21 “(B) provide 90 days for public review and
22 comments; and

23 “(C) promulgate final procedures no later
24 than 18 months after the date of enactment of
25 that Act.

1 “(4) PUBLIC PARTICIPATION.—The Secretary is
2 authorized and directed, in cooperation with the
3 Council on Environmental Quality and the Councils,
4 to involve the affected public in the development of
5 revised procedures, including workshops or other ap-
6 propriate means of public involvement.”.

7 **SEC. 108. EMERGENCY REGULATIONS.**

8 (a) LENGTHENING OF SECOND EMERGENCY PE-
9 RIOD.—Section 305(c)(3)(B) (16 U.S.C. 1855(c)(3)(B))
10 is amended by striking “180 days,” and inserting “186
11 days,”.

12 (b) TECHNICAL AMENDMENT.—Section 305(c)(3)(D)
13 (16 U.S.C. 1855(c)(3)(D)) is amended by inserting “or
14 interim measures” after “emergency regulations”.

15 **SEC. 109. WESTERN PACIFIC COMMUNITY DEVELOPMENT.**

16 Section 305 (16 U.S.C. 1855) is amended by adding
17 at the end thereof the following:

18 “(j) WESTERN PACIFIC REGIONAL MARINE EDU-
19 CATION AND TRAINING.—

20 “(1) IN GENERAL.—The Secretary shall estab-
21 lish a pilot program for regionally-based marine edu-
22 cation and training programs in the Western Pacific
23 to foster understanding, practical use of knowledge
24 (including native Hawaiian and other Pacific Is-
25 lander-based knowledge), and technical expertise rel-

1 evant to stewardship of living marine resources. The
2 Secretary shall, in cooperation with the Western Pa-
3 cific Regional Fishery Management Council, regional
4 educational institutions, and local Western Pacific
5 community training entities, establish programs or
6 projects that will improve communication, education,
7 and training on marine resource issues throughout
8 the region and increase scientific education for ma-
9 rine-related professions among coastal community
10 residents, including indigenous Pacific islanders, Na-
11 tive Hawaiians and other underrepresented groups
12 in the region.

13 “(2) PROGRAM COMPONENTS.—The program
14 shall—

15 “(A) include marine science and technology
16 education and training programs focused on
17 preparing community residents for employment
18 in marine related professions, including marine
19 resource conservation and management, marine
20 science, marine technology, and maritime oper-
21 ations;

22 “(B) include fisheries and seafood-related
23 training programs, including programs for fish-
24 ery observers, seafood safety and seafood mar-
25 keting, focused on increasing the involvement of

1 coastal community residents in fishing, fishery
2 management, and seafood-related operations;

3 “(C) include outreach programs and mate-
4 rials to educate and inform consumers about
5 the quality and sustainability of wild fish or
6 fish products farmed through responsible aqua-
7 culture, particularly in Hawaii and the Western
8 Pacific;

9 “(D) include programs to identify, with the
10 fishing industry, methods and technologies that
11 will improve the data collection, quality, and re-
12 porting and increase the sustainability of fish-
13 ing practices, and to transfer such methods and
14 technologies among fisheries sectors and to
15 other nations in the Western and Central Pa-
16 cific;

17 “(E) develop means by which local and
18 traditional knowledge (including Pacific islander
19 and Native Hawaiian knowledge) can enhance
20 science-based management of fishery resources
21 of the region; and

22 “(F) develop partnerships with other West-
23 ern Pacific Island agencies, academic institu-
24 tions, and other entities to meet the purposes of
25 this section.”.

1 **SEC. 110. WESTERN ALASKA COMMUNITY DEVELOPMENT**

2 **QUOTA PROGRAM.**

3 Section 305(i)(1) (16 U.S.C. 1855(i)(1)) is amend-
4 ed—

5 (1) by striking “To” in subparagraph (B) and
6 inserting “Except as provided in subparagraph (E),
7 to”; and

8 (2) by adding at the end the following:

9 “(E) A community shall be eligible to par-
10 ticipate in the western Alaska community devel-
11 opment quota program under subparagraph (A)
12 if the community was—

13 “(i) listed in table 7 to part 679 of
14 title 50, Code of Federal Regulations, as in
15 effect on January 1, 2004; or

16 “(ii) approved by the National Marine
17 Fisheries Service on April 19, 1999.”.

18 **SEC. 111. SECRETARIAL ACTION ON STATE GROUND FISH**

19 **FISHING.**

20 Section 305 (16 U.S.C. 1855) is amended by adding
21 at the end thereof the following:

22 “(k) MULTISPECIES GROUND FISH.—Within 60 days
23 after the date of enactment of the Magnuson-Stevens
24 Fishery Conservation and Management Reauthorization
25 Act of 2005, the Secretary of Commerce shall determine
26 whether fishing in State waters without a New England

1 multispecies groundfish fishery permit on regulated spe-
2 cies within the multispecies complex is not consistent with
3 the applicable Federal fishery management plan. If the
4 Secretary makes a determination that such actions are not
5 consistent with the plan, the Secretary shall, in consulta-
6 tion with the Council, and after notifying the affected
7 State, develop and implement measures to cure the incon-
8 sistency.”.

9 **SEC. 112. JOINT ENFORCEMENT AGREEMENTS.**

10 (a) IN GENERAL.—Section 311 (16 U.S.C. 1861) is
11 amended—

12 (1) by striking “and” after the semicolon in
13 subsection (b)(1)(A)(iv);

14 (2) by inserting “and” after the semicolon in
15 subsection (b)(1)(A)(v);

16 (3) by inserting after clause (v) of subsection
17 (b)(1)(A) the following:

18 “(vi) access, directly or indirectly, for
19 enforcement purposes any data or informa-
20 tion required to be provided under this
21 title or regulations under this title, includ-
22 ing data from Global Maritime Distress
23 and Safety Systems, vessel monitoring sys-
24 tems, or any similar system, subject to the
25 confidentiality provisions of section 402;”;

1 (4) by redesignating subsection (h) as sub-
2 section (j); and

3 (5) by inserting after subsection (g) the fol-
4 lowing:

5 “(h) JOINT ENFORCEMENT AGREEMENTS.—

6 “(1) IN GENERAL.—The Governor of an eligible
7 State may apply to the Secretary for execution of a
8 joint enforcement agreement with the Secretary that
9 will authorize the deputization and funding of State
10 law enforcement officers with marine law enforce-
11 ment responsibilities to perform duties of the Sec-
12 retary relating to law enforcement provisions under
13 this title or any other marine resource law enforced
14 by the Secretary. Upon receiving an application
15 meeting the requirements of this subsection, the Sec-
16 retary may enter into a joint enforcement agreement
17 with the requesting State.

18 “(2) ELIGIBLE STATE.—A State is eligible to
19 participate in the cooperative enforcement agree-
20 ments under this section if it is in, or bordering on,
21 the Atlantic Ocean (including the Caribbean Sea),
22 the Pacific Ocean, the Arctic Ocean, the Gulf of
23 Mexico, Long Island Sound, or 1 or more of the
24 Great Lakes.

1 “(3) REQUIREMENTS.—Joint enforcement
2 agreements executed under paragraph (1)—

3 “(A) shall be consistent with the purposes
4 and intent of this section to the extent applica-
5 ble to the regulated activities;

6 “(B) may include specifications for joint
7 management responsibilities as provided by the
8 first section of Public Law 91–412 (15 U.S.C.
9 1525); and

10 “(C) shall provide for confidentiality of
11 data and information submitted to the State
12 under section 402.

13 “(4) ALLOCATION OF FUNDS.—The Secretary
14 shall include in each joint enforcement agreement an
15 allocation of funds to assist in management of the
16 agreement. The allocation shall be fairly distributed
17 among all eligible States participating in cooperative
18 enforcement agreements under this subsection, based
19 upon consideration of Federal marine enforcement
20 needs, the specific marine conservation enforcement
21 needs of each participating eligible State, and the
22 capacity of the State to undertake the marine en-
23 forcement mission and assist with enforcement
24 needs. The agreement may provide for amounts to
25 be withheld by the Secretary for the cost of any

1 technical or other assistance provided to the State
2 by the Secretary under the agreement.

3 “(i) IMPROVED DATA SHARING.—

4 “(1) IN GENERAL.—Notwithstanding any other
5 provision of this Act, as soon as practicable but no
6 later than 21 months after the date of enactment of
7 the Magnuson-Stevens Fishery Conservation and
8 Management Reauthorization Act of 2005, the Sec-
9 retary shall implement data-sharing measures to
10 make any data required to be provided by this Act
11 from Global Maritime Distress and Safety Systems
12 or similar systems—

13 “(A) directly accessible by State enforce-
14 ment officers authorized under subsection (a) of
15 this section; and

16 “(B) available to a State management
17 agency involved in, or affected by, management
18 of a fishery if the State has entered into an
19 agreement with the Secretary under section
20 402(b)(1)(B) of this Act.

21 “(2) AGREEMENT REQUIRED.—The Secretary
22 shall promptly enter into an agreement with a State
23 under section 402(b)(1)(B) of this Act if—

24 “(A) the Attorney General or highest rank-
25 ing legal officer of the State provides a written

1 opinion or certification that State law allows
2 the State to maintain the confidentiality of in-
3 formation required by Federal law to be kept
4 confidential; or

5 “(B) the Secretary is provided other rea-
6 sonable assurance that the State can and will
7 protect the identity or business of any person to
8 which such information relates.”.

9 (b) REPORT ON USING GMDSS FOR FISHERY PUR-
10 POSES.—Within 15 months after the date of enactment
11 of this Act, the National Marine Fisheries Service and the
12 United States Coast Guard shall transmit a joint report
13 to the Senate Committee on Commerce, Science, and
14 Transportation and the House of Representatives Com-
15 mittee on Resources containing—

16 (1) a cost-to-benefit analysis of the feasibility,
17 value, and cost of using the Global Maritime Dis-
18 tress and Safety Systems or similar systems for fish-
19 ery management, conservation, enforcement, and
20 safety purposes with the Federal government bear-
21 ing the capital costs of any such system;

22 (2) an examination of the cumulative impact of
23 existing requirements for commercial vessels;

24 (3) an examination of whether the Global Mari-
25 time Distress and Safety Systems or similar require-

1 ments would overlap existing requirements or render
2 them redundant;

3 (4) an examination of how data integration
4 from such systems could be addressed;

5 (5) an examination of how to maximize the
6 data-sharing opportunities between relevant State
7 and Federal agencies and provide specific informa-
8 tion on how to develop these opportunities, including
9 the provision of direct access to the Global Maritime
10 Distress and Safety Systems or similar system data
11 to State enforcement officers, while considering the
12 need to maintain or provide an appropriate level of
13 individual vessel confidentiality where practicable;
14 and

15 (6) an assessment of how the Global Maritime
16 Distress and Safety Systems or similar systems
17 could be developed, purchased, and distributed to
18 regulated vessels.

19 **SEC. 113. TRANSITION TO SUSTAINABLE FISHERIES.**

20 (a) IN GENERAL.—Section 312 (16 U.S.C. 1861a)
21 is amended—

22 (1) by striking “measures;” in subsection
23 (a)(1)(B) and inserting “measures, including regu-
24 latory or judicial harvest restrictions imposed to pro-
25 tect human health or the marine environment;”;

1 (2) by striking “1996, 1997, 1998, and 1999.”
2 in subsection (a)(4) and inserting “2006 through
3 2012.”;

4 (3) by striking “or the Governor of a State for
5 fisheries under State authority, may conduct a fish-
6 ing” in subsection (b)(1) and inserting “the Gov-
7 ernor of a State for fisheries under State authority,
8 or a majority of permit holders in the fishery, may
9 conduct a voluntary fishing”;

10 (4) by inserting “practicable” after “entrants,”
11 in subsection (b)(1)(B)((i);

12 (5) by striking “cost-effective and” in sub-
13 section (b)(1)C) and inserting “cost-effective and, in
14 the instance of a program involving an industry fee
15 system, prospectively, and”;

16 (6) by striking subparagraph (A) of subsection
17 (b)(2) and inserting the following:

18 “(A) the owner of a fishing vessel, if the permit
19 authorizing the participation of the vessel in the
20 fishery is surrendered for permanent revocation and
21 the vessel owner and permit holder relinquish any
22 claim associated with the vessel or permit that could
23 qualify such owner or holder for any present or fu-
24 ture limited access system permit in the fishery for
25 which the program is established and such vessel is

1 (i) scrapped, or (ii) through the Secretary of the de-
2 partment in which the Coast Guard is operating,
3 subjected to title restrictions (including loss of the
4 vessel's fisheries endorsement) that permanently
5 prohibit and effectively prevent its use in fishing in
6 federal or state waters, or fishing on the high seas
7 or in the waters of a foreign nation ; or”;

8 (7) by striking “The Secretary shall consult, as
9 appropriate, with Councils,” in subsection (b)(4) and
10 inserting “The harvester proponents of each pro-
11 gram and the Secretary shall consult, as appropriate
12 and practicable, with Councils,”;

13 (8) by striking “Secretary, at the request of the
14 appropriate Council,” in subsection (d)(1)(A) and
15 inserting “Secretary”;

16 (9) by striking “Secretary, in consultation with
17 the Council,” in subsection (d)(1)(A) and inserting
18 “Secretary”;

19 (10) by striking “a two-thirds majority of the
20 participants voting.” in subsection (d)(1)(B) and in-
21 serting “at least a majority of the permit holders in
22 the fishery, or 50 percent of the permitted allocation
23 of the fishery.”;

24 (11) by striking “establish;” in subsection
25 (d)(2)((C) and inserting “establish, unless the Sec-

1 retary determines that such fees should be collected
2 from the seller;” and

3 (12) striking subsection (e) and inserting the
4 following:

5 “(e) IMPLEMENTATION PLAN.—

6 “(1) FRAMEWORK REGULATIONS.—The Sec-
7 retary shall propose and adopt framework regula-
8 tions applicable to the implementation of all pro-
9 grams under this section.

10 “(2) PROGRAM REGULATIONS.—The Secretary
11 shall implement each program under this section by
12 promulgating regulations that, together with the
13 framework regulations, establish each program and
14 control its implementation.

15 “(3) HARVESTER PROPONENTS’ IMPLEMENTA-
16 TION PLAN.—The Secretary may not propose imple-
17 mentation regulations for a program to be paid for
18 by an industry fee system until the harvester pro-
19 ponents of the program provide to the Secretary a
20 proposed implementation plan that, among other
21 matters—

22 “(A) proposes the types and numbers of
23 vessels or permits that are eligible to participate
24 in the program and the manner in which the
25 program shall proceed, taking into account—

1 “(i) the requirements of this section;

2 “(ii) the requirements of the frame-
3 work regulations;

4 “(iii) the characteristics of the fishery;

5 “(iv) the requirements of the applica-
6 ble fishery management plan and any
7 amendment that such plan may require to
8 support the proposed program;

9 “(v) the general needs and desires of
10 harvesters in the fishery;

11 “(vi) the need to minimize program
12 costs; and

13 “(vii) other matters, including the
14 manner in which such proponents propose
15 to fund the program to ensure its cost ef-
16 fectiveness, as well as any relevant factors
17 demonstrating the potential for, or nec-
18 essary to obtain, the support and general
19 cooperation of a substantial number of af-
20 fected harvesters in the fishery (or portion
21 of the fishery) for which the program is in-
22 tended; and

23 “(B) proposes procedures for program par-
24 ticipation (such as submission of owner bids
25 under an auction system or fair market-value

1 assessment), including any terms and condi-
2 tions for participation, that the harvester pro-
3 ponents deem to be reasonably necessary to
4 meet the program's proposed objectives.

5 “(4) PARTICIPATION CONTRACTS.—The Sec-
6 retary shall contract with each person participating
7 in a program, and each such contract shall, in addi-
8 tion to including such other matters as the Secretary
9 deems necessary and appropriate to effectively im-
10 plement each program (including penalties for con-
11 tract non-performance) be consistent with the frame-
12 work and implementing regulations and all other ap-
13 plicable law.

14 “(5) REDUCTION AUCTIONS.—Each program
15 not involving fair market assessment shall involve a
16 reduction auction that scores the reduction price of
17 each bid offer by the data relevant to each bidder
18 under an appropriate fisheries productivity factor. If
19 the Secretary accepts bids, the Secretary shall ac-
20 cept responsive bids in the rank order of their bid
21 scores, starting with the bid whose reduction price is
22 the lowest percentage of the productivity factor, and
23 successively accepting each additional responsive bid
24 in rank order until either there are no more respon-
25 sive bids or acceptance of the next bid would cause

1 the total value of bids accepted to exceed the amount
2 of funds available for the program.

3 “(6) BID INVITATIONS.—Each program shall
4 proceed by the Secretary issuing invitations to bid
5 setting out the terms and conditions for participa-
6 tion consistent with the framework and imple-
7 menting regulations. Each bid that the Secretary re-
8 ceives in response to the invitation to bid shall con-
9 stitute an irrevocable offer from the bidder.”.

10 (b) TECHNICAL AMENDMENT.—Sections 116, 203,
11 204, 205, and 206 of the Sustainable Fisheries Act are
12 deemed to have added sections 312, 402, 403, 404, and
13 405, respectively to the Act as of the date of enactment
14 of the Sustainable Fisheries Act.

15 **SEC. 114. REGIONAL COASTAL DISASTER ASSISTANCE,**
16 **TRANSITION, AND RECOVERY PROGRAM.**

17 Title III (16 U.S.C. 1851 et seq.) is amended by add-
18 ing at the end the following:

19 **“SEC. 315. REGIONAL COASTAL DISASTER ASSISTANCE,**
20 **TRANSITION, AND RECOVERY PROGRAM.**

21 “(a) IN GENERAL.—When there is a catastrophic re-
22 gional fishery disaster the Secretary may, upon the re-
23 quest of, and in consultation with, the Governors of af-
24 fected States, establish a regional economic transition pro-
25 gram to provide immediate disaster relief assistance to the

1 fishermen, charter fishing operators, United States fish
2 processors, and owners of related fishery infrastructure af-
3 fected by the disaster.

4 “(b) PROGRAM COMPONENTS.—

5 “(1) IN GENERAL.—The program shall provide
6 funds or other economic assistance to affected enti-
7 ties for—

8 “(A) meeting immediate regional shoreside
9 fishery infrastructure needs, including proc-
10 essing facilities, cold storage facilities, ice
11 houses, docks, including temporary docks and
12 storage facilities, and other related shoreside
13 fishery support facilities and infrastructure;

14 “(B) financial assistance and job training
15 assistance for fishermen who wish to remain in
16 a fishery in the region that may be temporarily
17 closed as a result of environmental or other ef-
18 fects associated with the disaster;

19 “(C) funding, pursuant to the require-
20 ments of section 312(b), to fishermen who are
21 willing to scrap a fishing vessel and perma-
22 nently surrender permits for fisheries named on
23 that vessel; and

24 “(D) any other activities authorized under
25 section 312(a) of this Act or section 308(d) of

1 the Interjurisdictional Fisheries Act of 1986
2 (16 U.S.C. 4107(d)).

3 “(2) JOB TRAINING.—Any fisherman who de-
4 cides to scrap a fishing vessel under the program
5 shall be eligible for job training assistance.

6 “(3) STATE PARTICIPATION OBLIGATION.—The
7 participation by a State in the program shall be con-
8 ditioned upon a commitment by the appropriate
9 State entity to ensure that the relevant State fishery
10 meets the requirements of section 312(b) of this Act
11 to ensure excess capacity does not re-enter the fish-
12 ery.

13 “(4) NO MATCHING.—Amounts provided under
14 the program may not be conditioned upon matching
15 State or local government funds or contributions.

16 “(5) NET REVENUE LIMIT INAPPLICABLE.—
17 Section 308(d)(3) of the Interjurisdictional Fisheries
18 Act (16 U.S.C. 4107(d)(3)) shall not apply to assist-
19 ance under this section.”.

20 “(c) REGIONAL IMPACT EVALUATION.—Within 2
21 months after a catastrophic regional fishery disaster the
22 Secretary shall provide the Governor of each State partici-
23 pating in the program a comprehensive economic and
24 socio-economic evaluation of the affected region’s fisheries
25 to assist the Governor in assessing the current and future

1 economic viability of affected fisheries, including the eco-
2 nomic impact of foreign fish imports and the direct, indi-
3 rect, or environmental impact of the disaster on the fish-
4 ery and coastal communities.

5 “(d) CATASTROPHIC REGIONAL FISHERY DISASTER
6 DEFINED.—In this section the term ‘catastrophic regional
7 fishery disaster’ means a natural disaster, including a hur-
8 ricane or tsunami, or a judicial or regulatory closure to
9 protect human health or the marine environment, that—

10 “(1) results in economic losses to coastal or
11 fishing communities;

12 “(2) affects more than 1 State or a major fish-
13 ery managed by a Council or interstate fishery com-
14 mission; and

15 “(3) is determined by the Secretary to be a
16 commercial fishery failure under section 312(a) of
17 this Act or a fishery resource disaster or section
18 308(d) of the Interjurisdictional Fisheries Act of
19 1986 (16 U.S.C. 4107(d)).”.

20 **SEC. 115. BYCATCH REDUCTION ENGINEERING PROGRAM.**

21 Title III (16 U.S.C. 1851 et seq.), as amended by
22 section 114 of this Act, is further amended by adding at
23 the end the following:

1 **“SEC. 316. BYCATCH REDUCTION ENGINEERING PROGRAM.**

2 “(a) BYCATCH REDUCTION ENGINEERING PRO-
3 GRAM.—Not later than 1 year after the date of enactment
4 of the Magnuson-Stevens Fishery Conservation and Man-
5 agement Reauthorization Act of 2005, the Secretary, in
6 cooperation with the Councils and other affected interests,
7 and based upon the best scientific information available,
8 shall establish a bycatch reduction program to develop
9 technological devices and other conservation engineering
10 changes designed to minimize bycatch, bycatch mortality,
11 and post-release mortality in Federally managed fisheries.
12 The program shall—

13 “(1) be regionally based;

14 “(2) be coordinated with projects conducted
15 under the cooperative research and management
16 program established under this Act;

17 “(3) provide information and outreach to fish-
18 ery participants that will encourage adoption and
19 use of technologies developed under the program;
20 and

21 “(4) provide for routine consultation with the
22 Councils in order to maximize opportunities to incor-
23 porate results of the program in Council actions and
24 provide incentives for adoption of methods developed
25 under the program in fishery management plans de-
26 veloped by the Councils.

1 “(b) INCENTIVES.—Any fishery management plan
2 prepared by a Council or by the Secretary may establish
3 a system of incentives to reduce total bycatch amounts,
4 bycatch rates, and post-release mortality in fisheries under
5 the Council’s or Secretary’s jurisdiction, including—

6 “(1) measures to incorporate bycatch into
7 quotas, including the establishment of collective or
8 individual bycatch quotas;

9 “(2) measures to promote the use of gear with
10 verifiable and monitored low bycatch rates; and

11 “(3) measures that, based on the best scientific
12 information available, will reduce bycatch, bycatch
13 mortality, post-release mortality, or regulatory dis-
14 cards in the fishery.”.

15 **TITLE II—INFORMATION AND** 16 **RESEARCH**

17 **SEC. 201. RECREATIONAL FISHERIES INFORMATION.**

18 Section 401 (16 U.S.C. 1881) is amended by striking
19 subsection (g) and inserting the following:

20 “(g) RECREATIONAL FISHERIES.—

21 “(1) FEDERAL PROGRAM.—The Secretary shall
22 establish and implement a regionally based registry
23 program for recreational fishermen in each of the 8
24 fishery management regions. The program, which
25 shall not require a fee, shall provide for—

1 “(A) the registration (including identifica-
2 tion and contact information) of individuals
3 who engage in recreational fishing—

4 “(i) in the Exclusive Economic Zone;

5 “(ii) for anadromous species; or

6 “(iii) for Continental Shelf fishery re-
7 sources beyond the Exclusive Economic
8 Zone; and

9 “(B) if appropriate, the registration (in-
10 cluding the ownership, operator, and identifica-
11 tion of the vessel) of vessels used in such fish-
12 ing.

13 “(2) STATE PROGRAMS.—The Secretary shall
14 exempt from registration under the program rec-
15 reational fishermen and charter fishing vessels li-
16 censed, permitted, or registered under the laws of a
17 State if the Secretary determines that information
18 from the State program is suitable for the Sec-
19 retary’s use or is used to assist in completing marine
20 recreational fisheries statistical surveys, or evalu-
21 ating the effects of proposed conservation and man-
22 agement measures for marine recreational fisheries.

23 “(3) DATA COLLECTION.—Within 24 months
24 after the date of enactment of the Magnuson-Ste-
25 vens Fishery conservation and Management Reau-

1 thorization Act of 2005, the Secretary shall establish
2 a program to improve the quality and accuracy of
3 information generated by the Marine Recreational
4 Fishery Statistics Survey, with a goal of achieving
5 acceptable accuracy and utility for each individual
6 fishery. Unless the Secretary determines that alter-
7 nate methods will achieve this goal more efficiently
8 and effectively, the program shall, to the extent pos-
9 sible, include—

10 “(A) an adequate number of dockside
11 interviews to accurately estimate recreational
12 catch and effort;

13 “(B) use of surveys that target anglers
14 registered or licensed at the State or Federal
15 level to collect participation and effort data;

16 “(C) collection and analysis of vessel trip
17 report data from charter fishing vessels; and

18 “(D) development of a weather corrective
19 factor that can be applied to recreational catch
20 and effort estimates.

21 “(4) REPORT.—Within 24 months after estab-
22 lishment of the program, the Secretary shall submit
23 a report to Congress that describes the progress
24 made toward achieving the goals and objectives of
25 the program.”.

1 **SEC. 202. COLLECTION OF INFORMATION.**

2 Section 402(a) (16 U.S.C. 1881a(a)) is amended—

3 (1) by striking “(a) COUNCIL REQUESTS.—” in
4 the subsection heading and inserting “(a) COLLEC-
5 TION PROGRAMS.—”;

6 (2) by resetting the text following “(a) COLLEC-
7 TION PROGRAMS.—” as a new paragraph 2 ems
8 from the left margin;

9 (3) by inserting “(1) COUNCIL REQUESTS.—”
10 before “If a Council”;

11 (4) by striking “subsection” in the last sentence
12 and inserting “paragraph”;

13 (5) by striking “(other than information that
14 would disclose proprietary or confidential commercial
15 or financial information regarding fishing operations
16 or fish processing operations)” each place it appears;
17 and

18 (6) by adding at the end the following:

19 “(2) SECRETARIAL INITIATION.—If the Sec-
20 retary determines that additional information is nec-
21 essary for developing, implementing, revising, or
22 monitoring a fishery management plan, or for deter-
23 mining whether a fishery is in need of management,
24 the Secretary may, by regulation, implement an in-
25 formation collection or observer program requiring

1 submission of such additional information for the
2 fishery.”.

3 **SEC. 203. ACCESS TO CERTAIN INFORMATION.**

4 (a) IN GENERAL.—Section 402(b) (16 U.S.C.
5 1881a(b)) is amended—

6 (1) by redesignating paragraph (2) as para-
7 graph (3) and resetting it 2 ems from the left mar-
8 gin;

9 (2) by striking all preceding paragraph (3), as
10 redesignated, and inserting the following:

11 “(b) CONFIDENTIALITY OF INFORMATION.—

12 “(1) Any information submitted to the Sec-
13 retary, a state fishery management agency, or a ma-
14 rine fisheries commission by any person in compli-
15 ance with the requirements of this Act that contains
16 confidential information shall be confidential and
17 shall be exempt from disclosure under section
18 552(h)(3) of title 5, United States Code, except—

19 “(A) to Federal employees and Council em-
20 ployees who are responsible for fishery manage-
21 ment plan development, monitoring, or enforce-
22 ment;

23 “(B) to State or Marine Fisheries Commis-
24 sion employees as necessary to further the De-
25 partment’s mission, subject to a confidentiality

1 agreement that prohibits public disclosure of
2 confidential information relating to any person;

3 “(C) to State employees who are respon-
4 sible for fishery management plan enforcement,
5 if the States employing those employees have
6 entered into a fishery enforcement agreement
7 with the Secretary and the agreement is in ef-
8 fect;

9 “(D) when such information is used by
10 State, Council, or Marine Fisheries Commission
11 employees to verify catch under a limited access
12 program, but only to the extent that such use
13 is consistent with subparagraph (B);

14 “(E) when the Secretary has obtained
15 written authorization from the person submit-
16 ting such information to release such informa-
17 tion to persons for reasons not otherwise pro-
18 vided for in this subsection, and such release
19 does not violate other requirements of this Act;

20 “(F) when such information is required to
21 be submitted to the Secretary for any deter-
22 mination under a limited access program; or

23 “(G) in support of homeland and national
24 security activities, including the Coast Guard’s
25 homeland security missions as defined in sec-

1 tion 888(a)(2) of the Homeland Security Act of
2 2002 (6 U.S.C. 468(a)(2)).

3 “(2) Any observer information shall be con-
4 fidential and shall not be disclosed, except in accord-
5 ance with the requirements of subparagraphs (A)
6 through (G) of paragraph (1), or—

7 “(A) as authorized by a fishery manage-
8 ment plan or regulations under the authority of
9 the North Pacific Council to allow disclosure to
10 the public of weekly summary bycatch informa-
11 tion identified by vessel or for haul-specific by-
12 catch information without vessel identification;

13 “(B) when such information is necessary
14 in proceedings to adjudicate observer certifi-
15 cations; or

16 “(C) as authorized by any regulations
17 issued under paragraph (3) allowing the collec-
18 tion of observer information, pursuant to a con-
19 fidentiality agreement between the observers,
20 observer employers, and the Secretary prohib-
21 iting disclosure of the information by the ob-
22 servers or observer employers, in order—

23 “(i) to allow the sharing of observer
24 information among observers and between
25 observers and observer employers as nec-

1 essary to train and prepare observers for
2 deployments on specific vessels; or
3 “(ii) to validate the accuracy of the
4 observer information collected.”; and
5 (3) by striking “(1)(E).” in paragraph (3), as
6 redesignated, and inserting “(2)(A).”.

7 (b) CONFORMING AMENDMENT.—Section 404(c)(4)
8 (16 U.S.C. 1881c(c)(4)) is amended by striking “under
9 section 401”.

10 **SEC. 204. COOPERATIVE RESEARCH AND MANAGEMENT**
11 **PROGRAM.**

12 Title III (16 U.S.C. 1851 et seq.), as amended by
13 section 111, is further amended by adding at the end the
14 following:

15 **“SEC. 317. COOPERATIVE RESEARCH AND MANAGEMENT**
16 **PROGRAM.**

17 “(a) IN GENERAL.—The Secretary of Commerce, in
18 consultation with the Councils, shall establish a coopera-
19 tive research and management program to address needs
20 identified under this Act and under any other marine re-
21 source laws enforced by the Secretary. The program shall
22 be implemented on a regional basis and shall be developed
23 and conducted through partnerships among Federal,
24 State, and Tribal managers and scientists (including inter-

1 state fishery commissions), fishing industry participants,
2 and educational institutions.

3 “(b) ELIGIBLE PROJECTS.—The Secretary shall
4 make funds available under the program for the support
5 of projects to address critical needs identified by the Sec-
6 retary in consultation with the Councils. The program
7 shall promote and encourage efforts to utilize sources of
8 data maintained by other Federal agencies, State agen-
9 cies, or academia for use in such projects.

10 “(c) FUNDING.—In making funds available the Sec-
11 retary shall award funding on a competitive basis and
12 based on regional fishery management needs, select pro-
13 grams that form part of a coherent program of research
14 focused on solving priority issues identified by the Coun-
15 cils, and shall give priority to the following projects:

16 “(1) Projects to collect data to improve, supple-
17 ment, or enhance stock assessments, including the
18 use of fishing vessels or acoustic or other marine
19 technology.

20 “(2) Projects to assess the amount and type of
21 bycatch or post-release mortality occurring in a fish-
22 ery.

23 “(3) Conservation engineering projects designed
24 to reduce bycatch, including avoidance of post-re-
25 lease mortality, reduction of bycatch in high seas

1 fisheries, and transfer of such fishing technologies to
2 other nations.

3 “(4) Projects for the identification of habitat
4 areas of particular concern and for habitat conserva-
5 tion.

6 “(5) Projects designed to collect and compile
7 economic and social data.

8 “(d) EXPERIMENTAL PERMITTING PROCESS.—Not
9 later than 180 days after the date of enactment of the
10 Magnuson-Stevens Fishery Conservation and Manage-
11 ment Reauthorization Act of 2005, the Secretary, in con-
12 sultation with the Councils, shall promulgate regulations
13 that create an expedited, uniform, and regionally-based
14 process to promote issuance, where practicable, of experi-
15 mental fishing permits.

16 “(e) GUIDELINES.—The Secretary, in consultation
17 with the Councils, shall establish guidelines to ensure that
18 participation in a research project funded under this sec-
19 tion does not result in loss of a participant’s catch history
20 or unexpended days-at-sea as part of a limited entry sys-
21 tem.”.

22 **SEC. 205. HERRING STUDY.**

23 Title III (16 U.S.C. 1851 et seq.), as amended by
24 section 204, is further amended by adding at the end the
25 following:

1 **“SEC. 318. HERRING STUDY.**

2 “(a) IN GENERAL.—The Secretary may conduct a co-
3 operative research program to study the issues of abun-
4 dance, distribution and the role of herring as forage fish
5 for other commercially important fish stocks in the North-
6 west Atlantic, and the potential for local scale depletion
7 from herring harvesting and how it relates to other fish-
8 eries in the Northwest Atlantic. In planning, designing,
9 and implementing this program, the Secretary shall en-
10 gage multiple fisheries sectors and stakeholder groups
11 concerned with herring management.

12 “(b) REPORT.—The Secretary shall present the final
13 results of this study to Congress within 3 months following
14 the completion of the study, and an interim report at the
15 end of fiscal year 2008.

16 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated \$2,000,000 for fiscal
18 year 2007 through fiscal year 2009 to conduct this
19 study.”.

20 **SEC. 206. RESTORATION STUDY.**

21 Title III (16 U.S.C. 1851 et seq.), as amended by
22 section 205, is further amended by adding at the end the
23 following:

24 **“SEC. 319. RESTORATION STUDY.**

25 “(a) IN GENERAL.—The Secretary may conduct a
26 study to update scientific information and protocols need-

1 ed to improve restoration techniques for a variety of coast
2 habitat types and synthesize the results in a format easily
3 understandable by restoration practitioners and local com-
4 munities.

5 “(b) AUTHORIZATION OF APPROPRIATIONS.—There
6 are authorized to be appropriated \$500,000 for fiscal year
7 2007 to conduct this study.”.

8 **SEC. 207. WESTERN PACIFIC FISHERY DEMONSTRATION**
9 **PROJECTS.**

10 Section 111(b) of the Sustainable Fisheries Act (16
11 U.S.C. 1855 note) is amended—

12 (1) by striking “and the Secretary of the Inte-
13 rior are” in paragraph (1) and inserting “is”;

14 (2) by striking “not less than three and not
15 more than five” in paragraph (1); and

16 (3) by striking paragraph (6) and inserting the
17 following:

18 “(6) In this subsection the term ‘Western Pa-
19 cific community’ means a community eligible to par-
20 ticipate under section 305(i)(2)(B)(i) through (iv) of
21 the Magnuson-Stevens Fishery Conservation and
22 Management Act (16 U.S.C. 1855(i)(2)(B)(i)
23 through (iv)).”.

1 **SEC. 208. FISHERIES CONSERVATION AND MANAGEMENT**

2 **FUND.**

3 (a) IN GENERAL.—The Secretary shall establish and
4 maintain a fund, to be known as the “Fisheries Conserva-
5 tion and Management Fund”, which shall consist of
6 amounts retained and deposited into the Fund under sub-
7 section (c).

8 (b) PURPOSES.—Subject to the allocation of funds
9 described in subsection (d), amounts in the Fund shall be
10 available to the Secretary of Commerce, without appro-
11 priation or fiscal year limitation, to disburse as described
12 in subsection (e) for—

13 (1) efforts to improve fishery harvest data col-
14 lection including—

15 (A) expanding the use of electronic catch
16 reporting programs and technology; and

17 (B) improvement of monitoring and ob-
18 server coverage through the expanded use of
19 electronic monitoring devices and satellite track-
20 ing systems such as VMS on small vessels;

21 (2) cooperative fishery research and analysis, in
22 collaboration with fishery participants, academic in-
23 stitutions, community residents, and other interested
24 parties;

1 (3) development of methods or new technologies
2 to improve the quality, health safety, and value of
3 fish landed;

4 (4) conducting analysis of fish and seafood for
5 health benefits and risks, including levels of con-
6 taminants and, where feasible, the source of such
7 contaminants;

8 (5) marketing of sustainable United States fish-
9 ery products, including consumer education regard-
10 ing the health or other benefits of wild fishery prod-
11 ucts harvested by vessels of the United States; and

12 (6) providing financial assistance to fishermen
13 to offset the costs of modifying fishing practices and
14 gear to meet the requirements of this Act, the Mag-
15 nuson-Stevens Fishery Conservation and Manage-
16 ment Act (16 U.S.C. 1801 et seq.), and other Fed-
17 eral laws in pari materia.

18 (c) DEPOSITS TO THE FUND.—

19 (1) COMPLIANCE ASSISTANCE.—Paragraph (1)
20 of section 311(e) (16 U.S.C. 1861(e)) is amended—

21 (A) by striking “and” after the semicolon
22 in subparagraph (E);

23 (B) by striking “law.” in subparagraph
24 (F); and

25 (C) by adding at the end the following:

1 “(G) amounts to the Fishery Conservation
2 and Management fund established by section
3 208 of the Magnuson-Stevens Fishery Con-
4 servation and Management Reauthorization Act
5 of 2005 necessary to assist in improving moni-
6 toring, enforcement, and compliance activities
7 under this Act.”.

8 (2) QUOTA SET-ASIDES.—Any amount gen-
9 erated through quota set-asides established by a
10 Council under the Magnuson-Stevens Fishery Con-
11 servation and Management Act (16 U.S.C. 1801 et
12 seq.) and designated by the Council for inclusion in
13 the Fishery Conservation and Management Fund,
14 may be deposited in the Fund.

15 (3) OTHER FUNDS.—In addition to amounts re-
16 ceived under sections 311(e)(1)(G) of the Magnuson-
17 Stevens Fishery Conservation and Management Act
18 (16 U.S.C. 1861(e)(1)(G), and amounts received
19 pursuant to paragraph (2) of this subsection, the
20 Fishery Conservation and Management Fund may
21 also receive funds from—

22 (A) appropriations for the purposes of this
23 section; and

1 (B) States or other public sources or pri-
2 vate or non-profit organizations for purposes of
3 this section.

4 (d) REGIONAL ALLOCATION.—The Secretary shall,
5 every 2 years, apportion monies from the Fund among the
6 eight Council regions according to consensus recommenda-
7 tions of the Councils, based on regional priorities identi-
8 fied through the Council process, except that no region
9 shall receive less than 5 percent of the Fund in each allo-
10 cation period.

11 (e) LIMITATION ON THE USE OF THE FUND.—No
12 amount made available from the Fund may be used to de-
13 fray the costs of carrying out other requirements of this
14 Act or the Magnuson-Stevens Fishery Conservation and
15 Management Act (16 U.S.C. 1801 et seq.).

16 **SEC. 209. USE OF FISHERY FINANCE PROGRAM AND CAP-**
17 **ITAL CONSTRUCTION FUND FOR SUSTAIN-**
18 **ABLE PURPOSES.**

19 (a) PURPOSE OF OBLIGATIONS.—Section
20 1104A(a)(7) of the Merchant Marine Act, 1936 (46
21 U.S.C. App. 1274(a)(7)) is amended to read as follows:

22 “financing or refinancing including,

23 “(A) the reimbursement of obligors for ex-
24 penditures previously made, for the purchase of
25 individual fishing quotas in accordance with

1 section 303(d)(4) of the Magnuson-Stevens
2 Fishery Conservation and Management Act;

3 “(B) activities that assist in the transition
4 to reduced fishing capacity;

5 “(C) technologies or upgrades designed to
6 improve collection and reporting of fishery-de-
7 pendent data, to reduce bycatch, to improve se-
8 lectivity or reduce adverse impacts of fishing
9 gear, or to improve safety; or

10 “(D) developing a sustainable fisheries la-
11 beling and marketing plan for a fishery, as de-
12 fined in section 607(k)(10) of this Act, deter-
13 mined by the Secretary to be in compliance with
14 the requirements of this Act and any other ma-
15 rine resource law implemented by the Sec-
16 retary.”.

17 (b) by striking “fisheries of the United States” in the
18 second sentence of subsection (a) and inserting “fisheries
19 of the United States, or for the purpose of developing a
20 sustainable fisheries labeling and marketing plan for a
21 fishery determined by the Secretary to be in compliance
22 with the requirements of this Act and any other living ma-
23 rine resource law implemented by the Secretary, or with
24 respect to seafood imports, to have been taken and re-
25 tained in a manner consistent with international regula-

1 tions governing the taking of such stock of fish and is ac-
2 companied by a certificate of origin under section 219 of
3 the Fish and Seafood Promotion Act of 1986,”;

4 (c) EXPANSION OF PURPOSES FOR QUALIFIED
5 WITHDRAWALS.—Section 607(f)(1) of the Merchant Ma-
6 rine Act, 1936 (46 U.S.C. App. 1177(f)(1)) is amended—

7 (1) by striking “for:” and inserting “for—”;

8 (B) by striking “vessel,” in subparagraph (A)
9 and inserting “vessel;”;

10 (C) by striking “vessel, or” in subparagraph

11 (B) and inserting “vessel;”;

12 (D) by striking “vessel.” in subparagraph (C)
13 and inserting “vessel;” and

14 (E) by inserting after subparagraph (C) the fol-
15 lowing:

16 “(D) in the case of any person for whose
17 benefit the fund was established and who par-
18 ticipates in the fishing capacity reduction pro-
19 gram under section 312 of the Magnuson-Ste-
20 vens Fishery Conservation and Management
21 Act (16 U.S.C. 1861a)—

22 “(i) if such person remains in the
23 fishery, the satisfaction of any debt obliga-
24 tion undertaken pursuant to such program;
25 and

1 “(ii) if such person withdraws 1 or
2 more vessels from the fishery, the substi-
3 tution of amounts the person would other-
4 wise receive under such program for such
5 person’s vessel or permit to engage in the
6 fishery;

7 “(E) the repair, maintenance, or upgrade
8 of an eligible vessel or its equipment for the
9 purpose of—

10 “(i) making conservation engineering
11 changes to reduce bycatch, improve selec-
12 tivity of fishing gear, or reduce adverse im-
13 pacts of fishing gear;

14 “(ii) improving vessel safety; or

15 “(iii) acquiring, installing, or upgrad-
16 ing equipment to improve collection, re-
17 porting, or accuracy of fishery data; or

18 “(F) the acquisition, construction, recon-
19 struction, upgrading, or investment in shoreside
20 fishery-related facilities or infrastructure in the
21 United States for the purpose of promoting
22 United States ownership of fishery-related fa-
23 cilities in the United States without contrib-
24 uting to overcapacity in the sector.”.

1 **TITLE III—OTHER FISHERIES**
2 **STATUTES**

3 **SEC. 301. AMENDMENTS TO NORTHERN PACIFIC HALIBUT**
4 **ACT.**

5 (a) CIVIL PENALTIES.—Section 8(a) of the Northern
6 Pacific Halibut Act of 1982 (16 U.S.C. 773f(a)) is amend-
7 ed—

8 (1) by striking “\$25,000” and inserting
9 “\$200,000”;

10 (2) by striking “violation, the degree of culpa-
11 bility, and history of prior offenses, ability to pay,”
12 in the fifth sentence and inserting “violation, the de-
13 gree of culpability, any history of prior offenses,”;
14 and

15 (3) by adding at the end the following: “In as-
16 sessing such penalty, the Secretary may also con-
17 sider any information provided by the violator relat-
18 ing to the ability of the violator to pay if the infor-
19 mation is provided to the Secretary at least 30 days
20 prior to an administrative hearing.”.

21 (b) PERMIT SANCTIONS.—Section 8 of the Northern
22 Pacific Halibut Act of 1982 (16 U.S.C. 773f) is amended
23 by adding at the end the following:

24 “(e) REVOCATION OR SUSPENSION OF PERMIT.—

1 “(1) IN GENERAL.—The Secretary may take
2 any action described in paragraph (2) in any case in
3 which—

4 “(A) a vessel has been used in the commis-
5 sion of any act prohibited under section 7;

6 “(B) the owner or operator of a vessel or
7 any other person who has been issued or has
8 applied for a permit under this Act has acted
9 in violation of section 7; or

10 “(C) any amount in settlement of a civil
11 forfeiture imposed on a vessel or other property,
12 or any civil penalty or criminal fine imposed on
13 a vessel or owner or operator of a vessel or any
14 other person who has been issued or has ap-
15 plied for a permit under any marine resource
16 law enforced by the Secretary has not been paid
17 and is overdue.

18 “(2) PERMIT-RELATED ACTIONS.—Under the
19 circumstances described in paragraph (1) the Sec-
20 retary may—

21 “(A) revoke any permit issued with respect
22 to such vessel or person, with or without preju-
23 dice to the issuance of subsequent permits;

1 “(B) suspend such permit for a period of
2 time considered by the Secretary to be appro-
3 priate;

4 “(C) deny such permit; or

5 “(D) impose additional conditions and re-
6 strictions on any permit issued to or applied for
7 by such vessel or person under this Act and,
8 with respect to any foreign fishing vessel, on
9 the approved application of the foreign nation
10 involved and on any permit issued under that
11 application.

12 “(3) FACTORS TO BE CONSIDERED.—In impos-
13 ing a sanction under this subsection, the Secretary
14 shall take into account—

15 “(A) the nature, circumstances, extent,
16 and gravity of the prohibited acts for which the
17 sanction is imposed; and

18 “(B) with respect to the violator, the de-
19 gree of culpability, any history of prior offenses,
20 and such other matters as justice may require.

21 “(4) TRANSFERS OF OWNERSHIP.—Transfer of
22 ownership of a vessel, a permit, or any interest in
23 a permit, by sale or otherwise, shall not extinguish
24 any permit sanction that is in effect or is pending
25 at the time of transfer of ownership. Before exe-

1 cuting the transfer of ownership of a vessel, permit,
2 or interest in a permit, by sale or otherwise, the
3 owner shall disclose in writing to the prospective
4 transferee the existence of any permit sanction that
5 will be in effect or pending with respect to the ves-
6 sel, permit, or interest at the time of the transfer.

7 “(5) REINSTATEMENT.—In the case of any per-
8 mit that is suspended under this subsection for non-
9 payment of a civil penalty, criminal fine, or any
10 amount in settlement of a civil forfeiture, the Sec-
11 retary shall reinstate the permit upon payment of
12 the penalty, fine, or settlement amount and interest
13 thereon at the prevailing rate.

14 “(6) HEARING.—No sanction shall be imposed
15 under this subsection unless there has been prior op-
16 portunity for a hearing on the facts underlying the
17 violation for which the sanction is imposed either in
18 conjunction with a civil penalty proceeding under
19 this section or otherwise.

20 “(7) PERMIT DEFINED.—In this subsection, the
21 term ‘permit’ means any license, certificate, ap-
22 proval, registration, charter, membership, exemption,
23 or other form of permission issued by the Commis-
24 sion or the Secretary, and includes any quota share

1 or other transferable quota issued by the Sec-
2 retary.”.

3 (c) CRIMINAL PENALTIES.—Section 9(b) of the
4 Northern Pacific Halibut Act of 1982 (16 U.S.C. 773g(b))
5 is amended—

6 (1) by striking “\$50,000” and inserting
7 “\$200,000”; and

8 (2) by striking “\$100,000,” and inserting
9 “\$400,000,”.

10 **SEC. 302. REAUTHORIZATION OF OTHER FISHERIES ACTS.**

11 (a) ATLANTIC STRIPED BASS CONSERVATION ACT.—
12 Section 7(a) of the Atlantic Striped Bass Conservation Act
13 (16 U.S.C. 5156(a)) is amended to read as follows:

14 “(a) AUTHORIZATION.—For each of fiscal years
15 2006, 2007, 2008, 2009, and 2010, there are authorized
16 to be appropriated to carry out this Act—

17 “(1) \$1,000,000 to the Secretary of Commerce;
18 and

19 “(2) \$250,000 to the Secretary of the Inte-
20 rior.”.

21 (b) YUKON RIVER SALMON ACT OF 2000.—Section
22 208 of the Yukon River Salmon Act of 2000 (16 U.S.C.
23 5727) is amended by striking “\$4,000,000 for each of fis-
24 cal years 2004 through 2008,” and inserting “\$4,000,000
25 for each of fiscal years 2006 through 2010,”.

1 (c) SHARK FINNING PROHIBITION ACT.—Section 10
2 of the Shark Finning Prohibition Act (16 U.S.C. 1822
3 note) is amended by striking “fiscal years 2001 through
4 2005” and inserting “fiscal years 2006 through 2010”.

5 (d) PACIFIC SALMON TREATY ACT.—

6 (1) TRANSFER OF SECTION TO ACT.—The text
7 of section 623 of title VI of H.R. 3421 (113 Stat.
8 1501A-56), as introduced on November 17, 1999,
9 and enacted into law by section 1000(a)(1) of the
10 Act of November 29, 1999 (Public Law 106–113)—

11 (A) is transferred to the Pacific Salmon
12 Treaty Act (16 U.S.C. 3631 et seq.) and in-
13 serted after section 15; and

14 (B) amended—

15 (i) by striking “SEC. 623.”; and

16 (ii) inserting before “(a) NORTHERN
17 FUND AND SOUTHERN FUND.—” the fol-
18 lowing:

19 **“SEC. 16. NORTHERN AND SOUTHERN FUNDS; TREATY IM-**
20 **PLEMENTATION; ADDITIONAL AUTHORIZA-**
21 **TION OF APPROPRIATIONS.”.**

22 (2) TECHNICAL CORRECTION.—The amendment
23 made by the Department of Commerce and Related
24 Agencies Appropriations Act, 2005 under the head-
25 ing “PACIFIC COASTAL SALMON RECOVERY” (118

1 Stat. 2881), to section 628(2)(A) of the Depart-
2 ments of Commerce, Justice, and State, the Judici-
3 ary, and Related Agencies Appropriations Act, 2001
4 is deemed to have been made to section
5 623(d)(2)(A) of title VI of H.R. 3421 (113 Stat.
6 1501A-56), as introduced on November 17, 1999,
7 enacted into law by section 1000(a)(1) of the Act of
8 November 29, 1999 (Public Law 106–113) instead
9 of to such section 628(2)(A), as of the date of enact-
10 ment of the Department of Commerce and Related
11 Agencies Appropriations Act, 2005.

12 (3) REAUTHORIZATION.—Section 16(d)(2)(A)
13 of the Pacific Salmon Treaty Act, as transferred by
14 subsection (a), is amended—

15 (1) by inserting “sustainable salmon fisheries,”
16 after “enhancement,”; and

17 (2) by inserting “2006, 2007, 2008, 2009, and
18 2010,” after “2005.”.

19 (e) ATLANTIC COASTAL FISHERIES COOPERATIVE
20 MANAGEMENT ACT.—Section 811(a) of the Atlantic
21 Coastal Fisheries Cooperative Management Act (16
22 U.S.C. 5108(a)) is amended by striking “2005.” and in-
23 serting “2005 and \$15,000,000 for each of fiscal years
24 2006 through 2010.”.

1 (f) STATE AUTHORITY FOR DUNGENESS CRAB FISH-
2 ERY MANAGEMENT.—Section 203 of Public Law 105–384
3 (16 U.S.C. 1856 note) is amended—

4 (1) by striking “September 30, 2006.” in sub-
5 section (i) and inserting “September 30, 2011.”;

6 (2) by striking “health” in subsection (j) and
7 inserting “status”; and

8 (3) by striking “California.” in subsection (j)
9 and inserting “California, including—

10 “(1) stock status and trends throughout its
11 range;

12 “(2) a description of applicable research and
13 scientific review processes used to determine stock
14 status and trends; and

15 “(3) measures implemented or planned that are
16 designed to prevent or end overfishing in the fish-
17 ery.”.

18 **TITLE IV—INTERNATIONAL**

19 **SEC. 401. INTERNATIONAL MONITORING AND COMPLIANCE.**

20 Title II (16 U.S.C. 1821 et seq.) is amended by add-
21 ing at the end the following:

22 **“SEC. 207. INTERNATIONAL MONITORING AND COMPLI-** 23 **ANCE.**

24 “(a) IN GENERAL.—The Secretary may undertake
25 activities to promote improved monitoring and compliance

1 for high seas fisheries, or fisheries governed by inter-
2 national fishery management agreements, and to imple-
3 ment the requirements of this title.

4 “(b) SPECIFIC AUTHORITIES.—In carrying out sub-
5 section (a), the Secretary may—

6 “(1) share information on harvesting and proc-
7 essing capacity and illegal, unreported and unregu-
8 lated fishing on the high seas, in areas covered by
9 international fishery management agreements, and
10 by vessels of other nations within the United States
11 exclusive economic zone, with relevant law enforce-
12 ment organizations of foreign nations and relevant
13 international organizations;

14 “(2) further develop real time information shar-
15 ing capabilities, particularly on harvesting and proc-
16 essing capacity and illegal, unreported and unregu-
17 lated fishing;

18 “(3) participate in global and regional efforts to
19 build an international network for monitoring, con-
20 trol, and surveillance of high seas fishing and fishing
21 under regional or global agreements;

22 “(4) support efforts to create an international
23 registry or database of fishing vessels, including by
24 building on or enhancing registries developed by
25 international fishery management organizations;

1 “(5) enhance enforcement capabilities through
2 the application of commercial or governmental re-
3 mote sensing technology to locate or identify vessels
4 engaged in illegal, unreported, or unregulated fish-
5 ing on the high seas, including encroachments into
6 the exclusive economic zone by fishing vessels of
7 other nations;

8 “(6) provide technical or other assistance to de-
9 veloping countries to improve their monitoring, con-
10 trol, and surveillance capabilities; and

11 “(7) support coordinated international efforts
12 to ensure that all large-scale fishing vessels oper-
13 ating on the high seas are required by their flag
14 State to be fitted with vessel monitoring systems no
15 later than December 31, 2008, or earlier if so de-
16 cided by the relevant flag State or any relevant
17 international fishery management organization.”.

18 **SEC. 402. FINDING WITH RESPECT TO ILLEGAL, UNRE-**
19 **PORTED, AND UNREGULATED FISHING.**

20 Section 2(a) (16 U.S.C. 1802(a)) is amended by add-
21 ing at the end the following:

22 “(11) International cooperation is necessary to
23 address illegal, unreported, and unregulated fishing
24 and other fishing practices which may harm the sus-

1 tainability of living marine resources and disadvan-
2 tage the United States fishing industry.”.

3 **SEC. 403. ACTION TO END ILLEGAL, UNREPORTED, OR UN-**
4 **REGULATED FISHING AND REDUCE BYCATCH**
5 **OF PROTECTED MARINE SPECIES.**

6 (a) IN GENERAL.—The High Seas Driftnet Fishing
7 Moratorium Protection Act (16 U.S.C. 1826d et seq.), is
8 amended by adding at the end the following:

9 **“SEC. 607 BIENNIAL REPORT ON INTERNATIONAL COMPLI-**
10 **ANCE.**

11 “The Secretary, in consultation with the Secretary of
12 State, shall provide to Congress, by not later than 2 years
13 after the date of enactment of the Magnuson-Stevens
14 Fishery Conservation and Management Reauthorization
15 Act of 2005, and every 2 years thereafter, a report that
16 includes—

17 “(1) the state of knowledge on the status of
18 international living marine resources, including a list
19 of all fish stocks classified as overfished, over-
20 exploited, depleted, endangered, or threatened with
21 extinction by any international or other authority
22 charged with management or conservation of living
23 marine resources;

24 “(2) a list of nations whose vessels have been
25 identified under sections 609(a) or 610(a), including

1 the specific offending activities and any subsequent
2 actions taken pursuant to section 609 or 610;

3 “(3) a description of efforts taken by nations on
4 those lists to comply with the provisions of sections
5 609 and 610, and an evaluation of the progress of
6 those efforts, including steps taken by the United
7 States to implement those sections and to improve
8 international compliance;

9 “(4) progress at the international level, pursu-
10 ant to section 608, to strengthen the efforts of inter-
11 national fishery management organizations to end il-
12 legal, unreported, or unregulated fishing; and

13 “(5) a plan of action for ensuring the conclu-
14 sion and entry into force of international measures
15 comparable to those of the United States to reduce
16 impacts of fishing and other practices on protected
17 living marine resources, if no international agree-
18 ment to achieve such goal exists, or if the relevant
19 international fishery or conservation organization
20 has failed to implement effective measures to end or
21 reduce the adverse impacts of fishing practices on
22 such species.

1 **“SEC. 608. ACTION TO STRENGTHEN INTERNATIONAL FISH-**
2 **ERY MANAGEMENT ORGANIZATIONS.**

3 “The Secretary, in consultation with the Secretary of
4 State, and in cooperation with relevant fishery manage-
5 ment councils, shall take actions to improve the effective-
6 ness of international fishery management organizations in
7 conserving and managing fish stocks under their jurisdic-
8 tion. These actions shall include—

9 “(1) urging international fishery management
10 organizations to which the United States is a mem-
11 ber—

12 “(A) to incorporate multilateral sanctions
13 against member governments whose vessels en-
14 gage in illegal, unreported, or unregulated fish-
15 ing;

16 “(B) to seek adoption of lists that identify
17 fishing vessels engaged in illegal, unreported, or
18 unregulated fishing, including authorized
19 (green) and unauthorized (red) vessel lists, that
20 can be shared among all members and other
21 international fishery management organizations;

22 “(C) to seek international adoption of a
23 centralized vessel monitoring system with an
24 independent secretariat in order to monitor and
25 document capacity in fleets of all nations in-
26 volved in fishing in areas under the an inter-

1 national fishery management organization's ju-
2 risdiction;

3 “(D) to increase use of observers and tech-
4 nologies needed to monitor compliance with con-
5 servation and management measures estab-
6 lished by the organization, including vessel
7 monitoring systems and automatic identification
8 systems; and

9 “(E) to seek adoption of greater port state
10 controls in all nations, particularly those na-
11 tions whose vessels engage in illegal, unre-
12 ported, or unregulated fishing;

13 “(2) urging international fishery management
14 organizations to which the United States is a mem-
15 ber, as well as all members of those organizations,
16 to adopt and expand the use of market-related meas-
17 ures to combat illegal, unreported, or unregulated
18 fishing, including—

19 “(A) import prohibitions, landing restric-
20 tions, or other market-based measures needed
21 to enforce compliance with international fishery
22 management organization measures, such as
23 quotas and catch limits;

24 “(B) import restrictions or other market-
25 based measures to prevent the trade or impor-

1 tation of fish caught by vessels identified multi-
2 laterally as engaging in illegal, unreported, or
3 unregulated fishing; and

4 “(C) catch documentation and certification
5 schemes to improve tracking and identification
6 of catch of vessels engaged in illegal, unre-
7 ported, or unregulated fishing, including ad-
8 vance transmission of catch documents to ports
9 of entry; and

10 “(3) urging other nations at bilateral, regional,
11 and international levels, including the Convention on
12 International Trade in Endangered Species of
13 Fauna and Flora and the World Trade Organization
14 to take all steps necessary, consistent with inter-
15 national law, to adopt measures and policies that
16 will prevent fish or other living marine resources
17 harvested by vessels engaged in illegal, unreported,
18 or unregulated fishing from being traded or im-
19 ported into their nation or territories.

20 **“SEC. 609 ILLEGAL, UNREPORTED, OR UNREGULATED FISH-**
21 **ING.**

22 “(a) IDENTIFICATION.—The Secretary shall identify,
23 and list in the report under section 607, a nation if—

24 “(1) fishing vessels of that nation are engaged,
25 or have been engaged during the preceding calendar

1 year in illegal, unreported, or unregulated fishing;
2 and

3 “(2) the relevant international fishery manage-
4 ment organization has failed to implement effective
5 measures to end the illegal unreported, or unregu-
6 lated fishing activity by vessels of that nation or the
7 nation is not a party to, or does not maintain co-
8 operating status with, such organization, or where
9 no international fishery management organization
10 exists.

11 “(b) NOTIFICATION.—An identification under sub-
12 section (a) or section 610(a) is deemed to be an identifica-
13 tion under section 101(b)(1)(A) of the High Seas Driftnet
14 Fisheries Enforcement Act (16 U.S.C. 1826a(b)(1)(A)),
15 and the Secretary shall notify the President and that na-
16 tion of such identification.

17 “(c) CONSULTATION.—No later than 60 days after
18 submitting a report to Congress under section 607, the
19 Secretary, in consultation with the Secretary of State,
20 shall—

21 “(1) notify nations listed in the report of the
22 requirements of this section;

23 “(2) initiate consultations for the purpose of
24 encouraging such nations to take the appropriate
25 corrective action with respect to the offending activi-

1 ties of their fishing vessels identified in the report;
2 and

3 “(3) notify any relevant international fishery
4 management organization of the actions taken by
5 the United States under this section.

6 “(d) IUU CERTIFICATION PROCEDURE.—

7 “(1) CERTIFICATION.—The Secretary shall es-
8 tablish a procedure, consistent with the provisions of
9 subchapter II of chapter 5 of title 5, United States
10 Code, and including notice and an opportunity for
11 comment by the governments of any nation listed by
12 the Secretary under subsection (a), for determining
13 if that government has taken appropriate corrective
14 action with respect to the offending activities of its
15 fishing vessels identified in the report under section
16 607. The Secretary shall determine, on the basis of
17 the procedure, and certify to the Congress no later
18 than 90 days after the date on which the Secretary
19 promulgates a final rule containing the procedure,
20 and biennially thereafter in the report under section
21 607—

22 “(A) whether the government of each na-
23 tion identified under subsection (b) has pro-
24 vided documentary evidence that it has taken
25 corrective action with respect to the offending

1 activities of its fishing vessels identified in the
2 report; or

3 “(B) whether the relevant international
4 fishery management organization has imple-
5 mented measures that are effective in ending
6 the illegal, unreported, or unregulated fishing
7 activity by vessels of that nation.

8 “(2) ALTERNATIVE PROCEDURE.—The Sec-
9 retary may establish a procedure for certification, on
10 a shipment-by-shipment, shipper-by-shipper, or other
11 basis of fish or fish products from a vessel of a har-
12 vesting nation not certified under paragraph (1) if
13 the Secretary determines that—

14 “(A) the vessel has not engaged in illegal,
15 unreported, or unregulated fishing under an
16 international fishery management agreement to
17 which the United States is a party; or

18 “(B) the vessel is not identified by an
19 international fishery management organization
20 as participating in illegal, unreported, or un-
21 regulated fishing activities.

22 “(3) EFFECT OF CERTIFICATION.—The provi-
23 sions of section 101(a) and section 101(b)(3) and
24 (4) of this Act (16 U.S.C. 1826a(a), (b)(3), and
25 (b)(4)) shall apply to any nation identified under

1 subsection (a) that has not been certified by the Sec-
2 retary under this subsection, or for which the Sec-
3 retary has issued a negative certification under this
4 subsection, but shall not apply to any nation identi-
5 fied under subsection (a) for which the Secretary
6 has issued a positive certification under this sub-
7 section.

8 “(e) ILLEGAL, UNREPORTED, OR UNREGULATED
9 FISHING DEFINED.—

10 “(1) IN GENERAL.—In this Act the term ‘ille-
11 gal, unreported, or unregulated fishing’ has the
12 meaning established under paragraph (2).

13 “(2) SECRETARY TO DEFINE TERM WITHIN
14 LEGISLATIVE GUIDELINES.—Within 3 months after
15 the date of enactment of the Magnuson-Stevens
16 Fishery Conservation and Management Reauthoriza-
17 tion Act of 2005, the Secretary shall publish a defi-
18 nition of the term ‘illegal, unreported, or unregu-
19 lated fishing’ for purposes of this Act.

20 “(3) GUIDELINES.—The Secretary shall include
21 in the definition, at a minimum—

22 “(A) fishing activities that violate con-
23 servation and management measures required
24 under an international fishery management
25 agreement to which the United States is a

1 party, including catch limits or quotas, capacity
2 restrictions, and bycatch reduction require-
3 ments;

4 “(B) overfishing of fish stocks for which
5 there are no applicable conservation or manage-
6 ment measures or in areas with no applicable
7 international fishery management organization
8 or agreement; and

9 “(C) destructive fishing practices, includ-
10 ing bottom trawling, that have adverse impacts
11 on seamounts, hydrothermal vents, and cold
12 water corals located beyond national jurisdic-
13 tion, for which there are no applicable conserva-
14 tion or management measures or in areas with
15 no applicable international fishery management
16 organization or agreement.

17 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
18 are authorized to be appropriated to the Secretary for fis-
19 cal years 2006 through 2012 such sums as are necessary
20 to carry out this section.

21 **“SEC. 610. EQUIVALENT CONSERVATION MEASURES.**

22 “(a) IDENTIFICATION.—The Secretary shall identify,
23 and list in the report under section 607, a nation if—

24 “(A) fishing vessels of that nation are en-
25 gaged, or have been engaged during the pre-

1 ceding calendar year in fishing activities or
2 practices beyond the exclusive economic zone
3 that result in bycatch of a protected living ma-
4 rine resource;

5 “(2) the relevant international organization
6 for the conservation and protection of such spe-
7 cies or the relevant international or regional
8 fishery organization has failed to implement ef-
9 fective measures to end or reduce the impacts
10 of the fishing practices of the nation’s vessels
11 on such species, or the nation is not a party to,
12 or does not maintain cooperating status with,
13 such organization; and

14 “(3) the nation has not adopted a regu-
15 latory program governing such fishing practices
16 and associated bycatch of protected living ma-
17 rine resources that are comparable to those of
18 the United States, taking into account different
19 conditions.

20 “(b) CONSULTATION AND NEGOTIATION.—The Sec-
21 retary, acting through the Secretary of State, shall—

22 “(1) notify, as soon as possible, other nations
23 whose vessels engage in fishing activities or practices
24 described in subsection (a), about the requirements
25 of this section and this Act;

1 “(2) initiate discussions as soon as possible
2 with all foreign governments which are engaged in,
3 or which have persons or companies engaged in,
4 fishing activities or practices described in subsection
5 (a), for the purpose of entering into bilateral and
6 multilateral treaties with such countries to protect
7 such species;

8 “(3) seek agreements calling for international
9 restrictions on fishing activities or practices de-
10 scribed in subsection (a) through the United Na-
11 tions, the Food and Agriculture Organization’s Com-
12 mittee on Fisheries, and appropriate international
13 fishery management bodies; and

14 “(4) initiate the amendment of any existing
15 international treaty for the protection and conserva-
16 tion of such species to which the United States is a
17 party in order to make such treaty consistent with
18 the purposes and policies of this section.

19 “(c) CONSERVATION CERTIFICATION PROCEDURE.—

20 “(1) CERTIFICATION.—The Secretary shall de-
21 termine, on the basis of a procedure consistent with
22 the provisions of subchapter II of chapter 5 of title
23 5, United States Code, and including notice and an
24 opportunity for comment by the governments of any
25 nation identified by the Secretary under subsection

1 (a). The Secretary shall certify to the Congress by
2 January 31, 2007, and annually thereafter whether
3 the government of each harvesting nation—

4 “(A) has provided documentary evidence of
5 the adoption of a regulatory program governing
6 the conservation of the protected living marine
7 resource, including measures to ensure max-
8 imum probability for survival after release, that
9 is comparable to that of the United States, tak-
10 ing into account different conditions, and
11 which, in the case of pelagic longline fishing, in-
12 cludes mandatory use of circle hooks, careful
13 handling and release equipment, and training
14 and observer programs; and

15 “(B) has established a management plan
16 containing requirements that will assist in gath-
17 ering species-specific data to support inter-
18 national stock assessments and conservation en-
19 forcement efforts for protected living marine re-
20 sources.

21 “(2) ALTERNATIVE PROCEDURE.—The Sec-
22 retary shall establish a procedure for certification,
23 on a shipment-by-shipment, shipper-by-shipper, or
24 other basis of fish or fish products from a vessel of
25 a harvesting nation not certified under paragraph

1 (1) if the Secretary determines that such imports
2 were harvested by practices that do not result in by-
3 catch of a protected marine species, or were har-
4 vested by practices that—

5 “(A) are comparable to those of the United
6 States, taking into account different conditions,
7 and which, in the case of pelagic longline fish-
8 ing, includes mandatory use of circle hooks,
9 careful handling and release equipment, and
10 training and observer programs; and

11 “(B) include the gathering of species spe-
12 cific data that can be used to support inter-
13 national and regional stock assessments and
14 conservation efforts for protected living marine
15 resources.

16 “(3) EFFECT OF CERTIFICATION.—The provi-
17 sions of section 101(a) and section 101(b)(3) and
18 (4) of this Act (16 U.S.C. 1826a(a), (b)(3), and
19 (b)(4)) shall apply to any nation identified under
20 subsection (a) that has not been certified by the Sec-
21 retary under this subsection, or for which the Sec-
22 retary has issued a negative certification under this
23 subsection, but shall not apply to any nation identi-
24 fied under subsection (a) for which the Secretary

1 has issued a positive certification under this sub-
2 section.

3 “(d) INTERNATIONAL COOPERATION AND ASSIST-
4 ANCE.—To the greatest extent possible consistent with ex-
5 isting authority and the availability of funds, the Secretary
6 shall—

7 “(1) provide appropriate assistance to nations
8 identified by the Secretary under subsection (a) and
9 international organizations of which those nations
10 are members to assist those nations in qualifying for
11 certification under subsection (c);

12 “(2) undertake, where appropriate, cooperative
13 research activities on species statistics and improved
14 harvesting techniques, with those nations or organi-
15 zations;

16 “(3) encourage and facilitate the transfer of ap-
17 propriate technology to those nations or organiza-
18 tions to assist those nations in qualifying for certifi-
19 cation under subsection (c); and

20 “(4) provide assistance to those nations or or-
21 ganizations in designing and implementing appro-
22 priate fish harvesting plans.

23 “(e) PROTECTED LIVING MARINE RESOURCE DE-
24 FINED.—In this section the term ‘protected living marine
25 resource’—

1 “(1) means non-target fish, sea turtles, or ma-
2 rine mammals occurring in areas beyond United
3 States jurisdiction that are protected under United
4 States law or international agreement, including the
5 Marine Mammal Protection Act, the Endangered
6 Species Act, the Shark Finning Prohibition Act, and
7 the Convention on International Trade in Endan-
8 gered Species of Wild Flora and Fauna; but

9 “(2) does not include species, except sharks,
10 managed under the Magnuson-Stevens Fishery Con-
11 servation and Management Act, the Atlantic Tunas
12 Convention Act, or any international fishery man-
13 agement agreement.

14 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated to the Secretary for fis-
16 cal years 2006 through 2012 such sums as are necessary
17 to carry out this section.”.

18 (b) CONFORMING AMENDMENTS.—

19 (1) DENIAL OF PORT PRIVILEGES.—Section
20 101(b) of the High Seas Driftnet Fisheries Enforce-
21 ment Act (16 U.S.C. 1826a(b)) is amended by in-
22 serting “or illegal, unreported, or unregulated
23 fishing“ after “fishing“ in paragraph (1)(A)(i),
24 paragraph (1)(B), paragraph (2), and paragraph
25 (4)(A)(i).

1 (2) DURATION OF DENIAL.—Section 102 of the
2 High Seas Driftnet Fisheries Enforcement Act (16
3 U.S.C. 1826b) is amended by inserting “or illegal,
4 unreported , or unregulated fishing“ after “fishing“.

5 **SEC. 404. MONITORING OF PACIFIC INSULAR AREA FISH-**
6 **ERIES.**

7 (a) WAIVER AUTHORITY.—Section 201(h)(2)(B) (16
8 U.S.C. 1821(h)(2)(B)) is amended by striking “that is at
9 least equal in effectiveness to the program established by
10 the Secretary;” and inserting “or other monitoring pro-
11 gram that the Secretary, in consultation with the Western
12 Pacific Management Council, determines is adequate to
13 monitor harvest, bycatch, and compliance with the laws
14 of the United States by vessels fishing under the agree-
15 ment;”.

16 (b) MARINE CONSERVATION PLANS.—Section
17 204(e)(4)(A)(i) (16 U.S.C. 1824(e)(4)(A)(i)) is amended
18 to read as follows:

19 “(i) Pacific Insular Area observer programs, or
20 other monitoring programs, that the Secretary deter-
21 mines are adequate to monitor the harvest, bycatch,
22 and compliance with the laws of the United States
23 by foreign fishing vessels that fish under Pacific In-
24 sular Area fishing agreements;”.

1 **SEC. 405. REAUTHORIZATION OF ATLANTIC TUNAS CON-**
2 **VENTION ACT.**

3 (a) IN GENERAL.—Section 10 of the Atlantic Tunas
4 Convention Act of 1975 (16 U.S.C. 971h) is amended to
5 read as follows:

6 **“SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

7 “(a) IN GENERAL.—There are authorized to be ap-
8 propriated to the Secretary to carry out this Act, including
9 use for payment of the United States share of the joint
10 expenses of the Commission as provided in Article X of
11 the Convention—

12 “(1) \$5,495,000 for fiscal year 2006;

13 “(2) \$5,770,000 for each of fiscal years 2007
14 and 2008;

15 “(3) \$6,058,000 for each of fiscal years 2009
16 and 2010; and

17 “(4) \$6,631,000 for each of fiscal years 2011
18 and 2012.

19 “(b) ALLOCATION.—Of the amounts made available
20 under subsection (a) for each fiscal year—

21 “(1) \$160,000 are authorized for the advisory
22 committee established under section 4 of this Act
23 and the species working groups established under
24 section 4A of this Act; and

25 “(2) \$7,500,000 are authorized for research ac-
26 tivities under this Act and section 3 of Public Law

1 94–339 (16 U.S.C. 971i), of which \$3,000,000 shall
2 be for the cooperative research program under sec-
3 tion 3(b)(2)(H) of that section (16 U.S.C.
4 971i(b)(2)(H)).”.

5 (b) ATLANTIC BILLFISH COOPERATIVE RESEARCH
6 PROGRAM.—Section 3(b)(2) of the Atlantic Tunas Con-
7 vention Act of 1975 (16 U.S.C. 971i(b)(2)) is amended—

8 (1) by striking “and” after the semicolon in
9 subparagraph (G);

10 (2) by redesignating subparagraph (H) as sub-
11 paragraph (I); and

12 (3) by inserting after subparagraph (G) the fol-
13 lowing:

14 “(H) include a cooperative research pro-
15 gram on Atlantic billfish based on the South-
16 east Fisheries Science Center Atlantic Billfish
17 Research Plan of 2002; and”.

18 **SEC. 406. INTERNATIONAL OVERFISHING AND DOMESTIC**
19 **EQUITY.**

20 (a) REBUILDING OVERFISHED FISHERIES.—Section
21 304(e) (16 U.S.C. 1854(e)) is amended by adding at the
22 end thereof the following:

23 “(8) The provisions of this paragraph shall
24 apply in lieu of paragraphs (2) through (7) of this
25 subsection to a fishery that the Secretary determines

1 is overfished or approaching a condition of being
2 overfished due to excessive international fishing
3 pressure, and for which there are no management
4 measures to end overfishing under an international
5 agreement to which the United States is a party.
6 For such fisheries—

7 “(A) the Secretary, in cooperation with the
8 Secretary of State, immediately take appro-
9 priate action at the international level to end
10 the overfishing; and

11 “(B) within 1 year after the Secretary’s
12 determination, the appropriate Council, or Sec-
13 retary, for fisheries under section 302(a)(3)
14 shall—

15 “(i) develop recommendations for do-
16 mestic regulations to address the relative
17 impact of fishing vessels of the United
18 States on the stock and, if developed by a
19 Council, the Council shall submit such rec-
20 ommendations to the Secretary; and

21 “(ii) develop and submit recommenda-
22 tions to the Secretary of State, and to the
23 Congress, for international actions that
24 will end overfishing in the fishery and re-
25 build the affected stocks, taking into ac-

1 count the relative impact of vessels of
2 other nations and vessels of the United
3 States on the relevant stock.”.

4 (b) HIGHLY MIGRATORY SPECIES TAGGING RE-
5 SEARCH.—Section 304(g)(2) (16 U.S.C. 1854(g)(2)) is
6 amended by striking “(16 U.S.C. 971d)” and inserting
7 “(16 U.S.C. 971d), or highly migratory species harvested
8 in a commercial fishery managed by a Council under this
9 Act or the Western and Central Pacific Fisheries Conven-
10 tion Implementation Act,”.

11 **TITLE V—IMPLEMENTATION OF**
12 **WESTERN AND CENTRAL PA-**
13 **CIFIC FISHERIES CONVEN-**
14 **TION**

15 **SEC. 501. SHORT TITLE.**

16 This title may be cited as the “Western and Central
17 Pacific Fisheries Convention Implementation Act”.

18 **SEC. 502. DEFINITIONS.**

19 In this title:

20 (1) 1982 CONVENTION.—The term “1982 Con-
21 vention” means the United Nations Convention on
22 the Law of the Sea of 10 December 1982.

23 (2) AGREEMENT.—The term “Agreement”
24 means the Agreement for the Implementation of the
25 Provisions of the United Nations Convention on the

1 Law of the Sea of 10 December 1982 relating to the
2 Conservation and Management of Straddling Fish
3 Stocks and Highly Migratory Fish Stocks.

4 (3) COMMISSION.—The term “Commission”
5 means the Commission for the Conservation and
6 Management of Highly Migratory Fish Stocks in the
7 Western and Central Pacific Ocean established in
8 accordance with this Convention.

9 (4) CONVENTION AREA.—The term “convention
10 area” means all waters of the Pacific Ocean bounded
11 to the south and to the east by the following line:
12 From the south coast of Australia due south along
13 the 141th meridian of east longitude to its intersec-
14 tion with the 55th parallel of south latitude; thence
15 due east along the 55th parallel of south latitude to
16 its intersection with the 150th meridian of east lon-
17 gitude; thence due south along the 150th meridian
18 of east longitude to its intersection with the 60th
19 parallel of south latitude; thence due east along the
20 60th parallel of south latitude to its intersection
21 with the 130th meridian of west longitude; thence
22 due north along the 130th meridian of west lon-
23 gitude to its intersection with the 4th parallel of
24 south latitude; thence due west along the 4th par-
25 allel of south latitude to its intersection with the

1 150th meridian of west longitude; thence due north
2 along the 150th meridian of west longitude.

3 (5) EXCLUSIVE ECONOMIC ZONE.—The term
4 “exclusive economic zone” means the zone estab-
5 lished by Presidential Proclamation Numbered 5030
6 of March 10, 1983.

7 (6) FISHING.—The term “fishing” means:

8 (A) searching for, catching, taking, or har-
9 vesting fish.

10 (B) attempting to search for, catch, take,
11 or harvest fish.

12 (C) engaging in any other activity which
13 can reasonably be expected to result in the lo-
14 cating, catching, taking, or harvesting of fish
15 for any purpose.

16 (D) placing, searching for, or recovering
17 fish aggregating devices or associated electronic
18 equipment such as radio beacons.

19 (E) any operations at sea directly in sup-
20 port of, or in preparation for, any activity de-
21 scribed in subparagraphs (A) through (D), in-
22 cluding transshipment.

23 (F) use of any other vessel, vehicle, air-
24 craft, or hovercraft, for any activity described
25 in subparagraphs (A) through (E) except for

1 emergencies involving the health and safety of
2 the crew or the safety of a vessel.

3 (7) FISHING VESSEL.—The term “fishing ves-
4 sel” means any vessel used or intended for use for
5 the purpose of fishing, including support ships, car-
6 rier vessels, and any other vessel directly involved in
7 such fishing operations.

8 (8) HIGHLY MIGRATORY FISH STOCKS.—The
9 term “highly migratory fish stocks” means all fish
10 stocks of the species listed in Annex 1 of the 1982
11 Convention occurring in the Convention Area, and
12 such other species of fish as the Commission may
13 determine.

14 (9) SECRETARY.—The term “Secretary” means
15 the Secretary of Commerce.

16 (10) STATE.—The term “State” means each of
17 the several States of the United States, the District
18 of Columbia, the Commonwealth of the Northern
19 Mariana Islands, American Samoa, Guam, and any
20 other commonwealth, territory, or possession of the
21 United States.

22 (11) TRANSHIPMENT.—The term “trans-
23 shipment” means the unloading of all or any of the
24 fish on board a fishing vessel to another fishing ves-
25 sel either at sea or in port.

1 (12) WCPCF CONVENTION; WESTERN AND
2 CENTRAL PACIFIC CONVENTION.—The terms
3 “WCPCF Convention” and “Western and Central
4 Pacific Convention” means the Convention on the
5 Conservation and Management of the Highly Migra-
6 tory Fish Stocks in the Western and Central Pacific
7 Ocean, with Annexes, which was adopted at Hono-
8 lulu, Hawaii, on September 5, 2000, by the Multilat-
9 eral High Level Conference on the Highly Migratory
10 Fish Stocks in the Western and Central Pacific
11 Ocean.

12 **SEC. 503. APPOINTMENT OF UNITED STATES COMMIS-**
13 **SIONERS.**

14 (a) IN GENERAL.—The President shall appoint at
15 least 5 individuals as United States Commissioners to rep-
16 resent the United States as members of the United States
17 Section of the Commission. In making the appointments,
18 the President shall select Commissioners from among indi-
19 viduals, including officials of the United States govern-
20 ment (one of whom shall be an officer or employee of the
21 Department of Commerce), and the chairman of the West-
22 ern Pacific Fishery Management Council or the chair-
23 man’s designee, who are knowledgeable or experienced
24 concerning highly migratory fish stocks in the Western
25 and Central Pacific Ocean. The Secretary of State, or the

1 Secretary of State's designee, shall also serve as a member
2 of the United States Section. The Commissioners shall be
3 entitled to select a Chairman and to adopt such rules of
4 procedures as they find necessary.

5 (b) ALTERNATE COMMISSIONERS.—The Secretary of
6 State, in consultation with the Secretary, may designate
7 from time to time and for periods of time deemed appro-
8 priate Alternate United States Commissioners to the Com-
9 mission. Any Alternate United States Commissioner may
10 exercise at any meeting of the Commission, Council, any
11 Panel, or the advisory committee established pursuant to
12 subsection (d), all powers and duties of a United States
13 Commissioner in the absence of any Commissioner ap-
14 pointed pursuant to subsection (a) of this section for what-
15 ever reason. The number of such Alternate United States
16 Commissioners that may be designated for any such meet-
17 ing shall be limited to the number of United States Com-
18 missioners appointed pursuant to subsection (a) of this
19 section who will not be present at such meeting.

20 (c) ADMINISTRATIVE MATTERS.—

21 (1) EMPLOYMENT STATUS.—Individuals serving
22 as such Commissioners shall not be considered to be
23 Federal employees while performing such service, ex-
24 cept for purposes of injury compensation or tort

1 claims liability as provided in chapter 81 of title 5
2 and chapter 171 of title 28, United States Code.

3 (2) COMPENSATION.—The United States Com-
4 missioners or Alternate Commissioners, although of-
5 ficers of the United States while so serving, shall re-
6 ceive no compensation for their services as such
7 Commissioners or Alternate Commissioners.

8 (3) TRAVEL EXPENSES.—

9 (A) The Secretary of State shall pay the
10 necessary travel expenses of United States
11 Commissioners, Alternate United States Com-
12 missioners, and authorized advisers in accord-
13 ance with the Federal Travel Regulations and
14 sections 5701, 5702, 5704 through 5708, and
15 5731 of title 5, United States Code.

16 (B) The Secretary may reimburse the Sec-
17 retary of State for amounts expended by the
18 Secretary of State under this subsection.

19 (d) ADVISORY COMMITTEES.—

20 (1) ESTABLISHMENT OF PERMANENT ADVISORY
21 COMMITTEE.—

22 (A) MEMBERSHIP.—There is established
23 an advisory committee which shall be composed
24 of—

1 (i) not less than 10 nor more than 15
2 individuals appointed by the United States
3 Commissioners who shall select such indi-
4 viduals from the various groups concerned
5 with the fisheries covered by the WCPFC
6 Convention, providing, to the maximum ex-
7 tent practicable, an equitable balance
8 among such groups;

9 (ii) the chair of the Western Pacific
10 Fishery Management Council's Advisory
11 Committee or the chair's designee; and

12 (iii) officials of the fisheries manage-
13 ment authorities of American Samoa,
14 Guam, and the Northern Mariana Islands
15 (or their designees).

16 (B) TERMS AND PRIVILEGES.—Each mem-
17 ber of the advisory committee appointed under
18 subparagraph (A) shall serve for a term of 2
19 years and shall be eligible for reappointment.
20 Members of the advisory committee may attend
21 all public meetings of the Commission, Council,
22 or any Panel and any other meetings to which
23 they are invited by the Commission, Council, or
24 any Panel. The advisory committee shall be in-
25 vited to attend all non-executive meetings of the

1 United States Commissioners and at such meet-
2 ings shall be given opportunity to examine and
3 to be heard on all proposed programs of inves-
4 tigation, reports, recommendations, and regula-
5 tions of the Commission.

6 (C) PROCEDURES.—The advisory com-
7 mittee established by subparagraph (A) shall
8 determine its organization, and prescribe its
9 practices and procedures for carrying out its
10 functions under this chapter, the Magnuson-
11 Stevens Fishery Conservation and Management
12 Act (16 U.S.C. 1801 et seq.), and the WCPFC
13 Convention. The advisory committee shall pub-
14 lish and make available to the public a state-
15 ment of its organization, practices, and proce-
16 dures. A majority of the members of the advi-
17 sory committee shall constitute a quorum, but
18 one or more such members designated by the
19 advisory committee may hold meetings to pro-
20 vide for public participation and to discuss
21 measures relating to the United States imple-
22 mentation of Commission recommendations.
23 Meetings of the advisory committee, except
24 when in executive session, shall be open to the
25 public, and prior notice of meetings shall be

1 made public in a timely fashion. and the advi-
2 sory committee shall not be subject to the Fed-
3 eral Advisory Committee Act (5 U.S.C. App.).

4 (D) PROVISION OF INFORMATION.—The
5 Secretary and the Secretary of State shall fur-
6 nish the advisory committee with relevant infor-
7 mation concerning fisheries and international
8 fishery agreements.

9 (2) ADMINISTRATIVE MATTERS.—

10 (A) SUPPORT SERVICES.—The Secretary
11 shall provide to advisory committees in a timely
12 manner such administrative and technical sup-
13 port services as are necessary for their effective
14 functioning.

15 (B) COMPENSATION; STATUS; EX-
16 PENSES.—Individuals appointed to serve as a
17 member of an advisory committee—

18 (i) shall serve without pay, but while
19 away from their homes or regular places of
20 business in the performance of services for
21 the advisory committee shall be allowed
22 travel expenses, including per diem in lieu
23 of subsistence, in the same manner as per-
24 sons employed intermittently in the Gov-
25 ernment service are allowed expenses under

1 section 5703 of title 5, United States
2 Code; and

3 (ii) shall not be considered Federal
4 employees by reason of their service as
5 members of an advisory committee, except
6 for purposes of injury compensation or tort
7 claims liability as provided in chapter 81 of
8 title 5, United States Code, and chapter
9 171 of title 28, United States Code.

10 (f) MEMORANDUM OF UNDERSTANDING.—For highly
11 migratory species in the Pacific, the Secretary, in coordi-
12 nation with the Secretary of State, shall develop a memo-
13 randum of understanding with the Western Pacific, Pa-
14 cific, and North Pacific Fishery Management Councils,
15 that establishes a mechanism for the relevant Council or
16 Councils to—

17 (1) participate in United States delegations to
18 international fishery organizations in the Pacific
19 Ocean, including government-to-government con-
20 sultations;

21 (2) make formal recommendations to the Sec-
22 retary and the Secretary of State regarding nec-
23 essary measures for both domestic and foreign ves-
24 sels fishing for these species;

1 (3) coordinate positions with the United States
2 delegation for presentation to the appropriate inter-
3 national fishery organization; and

4 (4) recommend those domestic fishing regula-
5 tions that are consistent with the actions of the
6 international fishery organization, for approval and
7 implementation under the Magnuson-Stevens Fish-
8 ery Conservation and Management Act (16 U.S.C.
9 1801 et seq.)

10 **SEC. 504. AUTHORITY AND RESPONSIBILITY OF THE SEC-**
11 **RETARY OF STATE.**

12 The Secretary of State may—

13 (1) receive and transmit, on behalf of the
14 United States, reports, requests, recommendations,
15 proposals, and other communications of and to the
16 Commission;

17 (2) in consultation with the Secretary and the
18 United States Commissioners, approve, disapprove,
19 object to, or withdraw objections to the general an-
20 nual program of the WCPFC Commission with re-
21 spect to conservation and management measures
22 and other measures proposed or adopted in accord-
23 ance with the WCPFC Convention; and

1 (3) act upon, or refer to other appropriate au-
2 thority, any communication referred to in paragraph
3 (1).

4 **SEC. 505. RULEMAKING AUTHORITY OF THE SECRETARY OF**
5 **COMMERCE.**

6 (a) PROMULGATION OF REGULATIONS.—The Sec-
7 retary, in consultation with the Secretary of the Depart-
8 ment in which the Coast Guard is operating and the ap-
9 propriate Regional Fishery Management Council, shall
10 promulgate such regulations as may be necessary to carry
11 out the United States international obligations under the
12 WCPFC Convention and this title. The Secretary shall
13 promulgate such regulations in accordance with the proce-
14 dures established by the Magnuson-Stevens Fishery Con-
15 servation and Management Act (16 U.S.C. 1801 et seq.).

16 (b) ADDITIONS TO FISHERY REGIMES AND REGULA-
17 TIONS.—The Secretary may promulgate regulations appli-
18 cable to nationals or vessels of the United States, or both,
19 which are in addition to, and not in conflict with, fishery
20 conservation and management measures and regulations
21 adopted under the WCPFC Convention.

22 **SEC. 506. ENFORCEMENT.**

23 (a) IN GENERAL.—The Secretary may—

24 (1) administer and enforce this title and any
25 regulations issued under this title, including enforce-

1 ment of any such regulations within the boundaries
2 of any State bordering on the convention area;

3 (2) request and utilize on a reimbursed or non-
4 reimbursed basis the assistance, services, personnel,
5 equipment, and facilities of other Federal depart-
6 ments and agencies in—

7 (A) the administration and enforcement of
8 this title; and

9 (B) the conduct of scientific, research, and
10 other programs under this title;

11 (3) conduct fishing operations and biological ex-
12 periments for purposes of scientific investigation or
13 other purposes necessary to implement the WCPFC
14 Convention;

15 (4) collect, utilize, and disclose such informa-
16 tion as may be necessary to implement the WCPFC
17 Convention, subject to sections 552 and 552a of title
18 5, United States Code, and section 402(b) of the
19 Magnuson-Stevens Fishery Conservation and Man-
20 agement Act (16 U.S.C. 1881a(b));

21 (5) assess and collect fees to recover the costs
22 of implementing and enforcing this title, policy and
23 rulemaking activities, user information services,
24 international activities under this title, and the costs
25 to the United States of enforcing the WCPFC Con-

1 vention, which shall be deposited as an offsetting
2 collection in, and credited to, the account providing
3 appropriations to carry out the functions of the Sec-
4 retary under this title; and

5 (6) issue permits to owners and operators of
6 United States vessels to fish in the convention area
7 seaward of the United States Exclusive Economic
8 Zone.

9 (b) PROHIBITED ACTS.—It is unlawful for any per-
10 son to violate any provision of this title or the regulations
11 promulgated under this title.

12 (c) ACTIONS BY THE SECRETARY.—The Secretary
13 shall prevent any person from violating this title in the
14 same manner, by the same means, and with the same ju-
15 risdiction, powers, and duties as though all applicable
16 terms and provisions of the Magnuson-Stevens Fishery
17 Conservation Act (16 U.S.C. 1857) were incorporated into
18 and made a part of this title. Any person that violates
19 any provision of this title is subject to the penalties and
20 entitled to the privileges and immunities provided in the
21 Magnuson-Stevens Fishery Conservation Act in the same
22 manner, by the same means, and with the same jurisdic-
23 tion, power, and duties as though all applicable terms and
24 provisions of that Act were incorporated into and made
25 a part of this title.

1 **SEC. 507. PENALTIES.**

2 This title shall be enforced by the Secretary as if a
3 violation of this title or of any regulation promulgated by
4 the Commission under this title were a violation of section
5 307 of the Magnuson-Stevens Fishery Conservation Act
6 (16 U.S.C. 1857).

7 **SEC. 508. COOPERATION IN CARRYING OUT CONVENTION.**

8 (a) FEDERAL AND STATE AGENCIES; PRIVATE INSTI-
9 TUTIONS AND ORGANIZATIONS.—The United States Com-
10 missioners, through the Secretary of State and with the
11 concurrence of the Secretary, institution, or organization
12 concerned, may arrange for the cooperation of Federal
13 agencies and of State and private institutions and organi-
14 zations in carrying out responsibilities under the WCPFC
15 Convention.

16 (b) SCIENTIFIC AND OTHER PROGRAMS; FACILITIES
17 AND PERSONNEL.—All Federal agencies are authorized,
18 upon the request of the Secretary of Commerce Commis-
19 sion, to cooperate in the conduct of scientific and other
20 programs and to furnish facilities and personnel for the
21 purpose of assisting the Commission in carrying out its
22 duties under the WCPFC Convention.

23 **SEC. 509. TERRITORIAL PARTICIPATION.**

24 The Secretary of State shall ensure participation in
25 the Commission and its subsidiary bodies by American

1 Samoa, Guam, and the Northern Mariana Islands to the
2 same extent provided to the territories of other nations.

3 **SEC. 510. AUTHORIZATION OF APPROPRIATIONS.**

4 There are authorized to be appropriated to the Sec-
5 retary of Commerce such sums as may be necessary to
6 carry out this title and to pay the United States' contribu-
7 tion to the Commission under section 5 of part III of the
8 WCPFC Convention.

9 **TITLE VI—PACIFIC WHITING**

10 **SEC. 601. SHORT TITLE.**

11 This title may be cited as the “Pacific Whiting Act
12 of 2005”.

13 **SEC. 602. DEFINITIONS.**

14 In this title:

15 (1) **ADVISORY PANEL.**—The term “advisory
16 panel” means the Advisory Panel on Pacific Hake/
17 Whiting established by the Agreement.

18 (2) **AGREEMENT.**—The term “Agreement”
19 means the Agreement between the Government of
20 the United States and the Government of Canada on
21 Pacific Hake/Whiting, signed at Seattle, Wash-
22 ington, on November 21, 2003.

23 (3) **CATCH.**—The term “catch” means all fish-
24 ery removals from the offshore whiting resource, in-

1 including landings, discards, and bycatch in other fish-
2 eries.

3 (4) JOINT MANAGEMENT COMMITTEE.—The
4 term “joint management committee” means the
5 joint management committee established by the
6 Agreement.

7 (5) JOINT TECHNICAL COMMITTEE.—The term
8 “joint technical committee” means the joint tech-
9 nical committee established by the Agreement.

10 (6) OFFSHORE WHITING RESOURCE.—The term
11 “offshore whiting resource” means the
12 transboundary stock of *Merluccius productus* that is
13 located in the offshore waters of the United States
14 and Canada except in Puget Sound and the Strait
15 of Georgia.

16 (7) SCIENTIFIC REVIEW GROUP.—The term
17 “scientific review group” means the scientific review
18 group established by the Agreement.

19 (8) SECRETARY.—The term “Secretary” means
20 the Secretary of Commerce.

21 (9) UNITED STATES SECTION.—The term
22 “United States Section” means the United States
23 representatives on the joint management committee.

1 **SEC. 603. UNITED STATES REPRESENTATION ON JOINT**
2 **MANAGEMENT COMMITTEE.**

3 (a) REPRESENTATIVES.—

4 (1) IN GENERAL.—The Secretary, in consulta-
5 tion with the Secretary of State, shall appoint 4 in-
6 dividuals to represent the United States as the
7 United States Section on the joint management com-
8 mittee. In making the appointments, the Secretary
9 shall select representatives from among individuals
10 who are knowledgeable or experienced concerning
11 the offshore whiting resource. Of these—

12 (A) 1 shall be an official of the National
13 Oceanic and Atmospheric Administration;

14 (B) 1 shall be a member of the Pacific
15 Fishery Management Council, appointed with
16 consideration given to any recommendation pro-
17 vided by that Council;

18 (C) 1 shall be appointed from a list sub-
19 mitted by the treaty Indian tribes with treaty
20 fishing rights to the offshore whiting resource;
21 and

22 (D) 1 shall be appointed from the commer-
23 cial sector of the whiting fishing industry con-
24 cerned with the offshore whiting resource.

25 (2) TERM OF OFFICE.—Each representative ap-
26 pointed under paragraph (1) shall be appointed for

1 a term not to exceed 4 years, except that, of the ini-
2 tial appointments, 2 representatives shall be ap-
3 pointed for terms of 2 years. Any individual ap-
4 pointed to fill a vacancy occurring prior to the expi-
5 ration of the term of office of that individual's pred-
6 ecessor shall be appointed for the remainder of that
7 term. A representative may be appointed for a term
8 of less than 4 years if such term is necessary to en-
9 sure that the term of office of not more than 2 rep-
10 resentatives will expire in any single year. An indi-
11 vidual appointed to serve as a representative is eligi-
12 ble for reappointment.

13 (3) CHAIR.—Unless otherwise agreed by all of
14 the 4 representatives, the chair shall rotate annually
15 among the 4 members, with the order of rotation de-
16 termined by lot at the first meeting.

17 (b) ALTERNATE REPRESENTATIVES.—The Secretary,
18 in consultation with the Secretary of State, may designate
19 alternate representatives of the United States to serve on
20 the joint management committee. An alternative rep-
21 resentative may exercise, at any meeting of the committee,
22 all the powers and duties of a representative in the ab-
23 sence of a duly designated representative for whatever rea-
24 son.

1 **SEC. 604. UNITED STATES REPRESENTATION ON THE SCI-**
2 **ENTIFIC REVIEW GROUP.**

3 (a) IN GENERAL.—The Secretary, in consultation
4 with the Secretary of State, shall appoint no more than
5 2 scientific experts to serve on the scientific review group.
6 An individual shall not be eligible to serve on the scientific
7 review group while serving on the joint technical com-
8 mittee.

9 (b) TERM.—An individual appointed under sub-
10 section (a) shall be appointed for a term of not to exceed
11 4 years, but shall be eligible for reappointment. An indi-
12 vidual appointed to fill a vacancy occurring prior to the
13 expiration of a term of office of that individual's prede-
14 cessor shall be appointed to serve for the remainder of that
15 term.

16 (c) JOINT APPOINTMENTS.—In addition to individ-
17 uals appointed under subsection (a), the Secretary, jointly
18 with the Government of Canada, may appoint to the sci-
19 entific review group, from a list of names provided by the
20 advisory panel —

21 (1) up to 2 independent members of the sci-
22 entific review group; and

23 (2) 2 public advisors.

24 **SEC. 605. UNITED STATES REPRESENTATION ON JOINT**
25 **TECHNICAL COMMITTEE.**

26 (a) SCIENTIFIC EXPERTS.—

1 (1) IN GENERAL.—The Secretary, in consulta-
2 tion with the Secretary of State, shall appoint at
3 least 6 but not more than 12 individuals to serve as
4 scientific experts on the joint technical committee, at
5 least 1 of whom shall be an official of the National
6 Oceanic and Atmospheric Administration.

7 (2) TERM OF OFFICE.—An individual appointed
8 under paragraph (1) shall be appointed for a term
9 of not to exceed 4 years, but shall be eligible for re-
10 appointment. An individual appointed to fill a va-
11 cancy occurring prior to the expiration of the term
12 of office of that individual's predecessor shall be ap-
13 pointed for the remainder of that term.

14 (b) INDEPENDENT MEMBER.—In addition to individ-
15 uals appointed under subsection (a), the Secretary, jointly
16 with the Government of Canada, shall appoint 1 inde-
17 pendent member to the joint technical committee selected
18 from a list of names provided by the advisory panel.

19 **SEC. 606. UNITED STATES REPRESENTATION ON ADVISORY**
20 **PANEL.**

21 (a) IN GENERAL.—

22 (1) APPOINTMENT.—The Secretary, in con-
23 sultation with the Secretary of State, shall appoint
24 at least 6 but not more than 12 individuals to serve

1 as members of the advisory panel, selected from
2 among individuals who are—

3 (A) knowledgeable or experienced in the
4 harvesting, processing, marketing, management,
5 conservation, or research of the offshore whiting
6 resource; and

7 (B) not employees of the United States.

8 (2) TERM OF OFFICE.—An individual appointed
9 under paragraph (1) shall be appointed for a term
10 of not to exceed 4 years, but shall be eligible for re-
11 appointment. An individual appointed to fill a va-
12 cancy occurring prior to the expiration of the term
13 of office of that individual's predecessor shall be ap-
14 pointed for the remainder of that term.

15 **SEC. 607. RESPONSIBILITIES OF THE SECRETARY.**

16 (a) IN GENERAL.—The Secretary is responsible for
17 carrying out the Agreement and this title, including the
18 authority, to be exercised in consultation with the Sec-
19 retary of State, to accept or reject, on behalf of the United
20 States, recommendations made by the joint management
21 committee.

22 (b) REGULATIONS; COOPERATION WITH CANADIAN
23 OFFICIALS.—In exercising responsibilities under this title,
24 the Secretary—

1 (1) may promulgate such regulations as may be
2 necessary to carry out the purposes and objectives of
3 the Agreement and this title; and

4 (2) with the concurrence of the Secretary of
5 State, may cooperate with officials of the Canadian
6 Government duly authorized to carry out the Agree-
7 ment.

8 **SEC. 608. RULEMAKING.**

9 (a) APPLICATION WITH MAGNUSON-STEVENSON ACT.—
10 The Secretary shall establish the United States catch level
11 for Pacific whiting according to the standards and proce-
12 dures of the Agreement and this title rather than under
13 the standards and procedures of the Magnuson-Stevens
14 Fishery Conservation Act (16 U.S.C. 1801 et seq.), except
15 to the extent necessary to address the rebuilding needs
16 of other species. Except for establishing the catch level,
17 all other aspects of Pacific whiting management shall be—

18 (1) subject to the Magnuson-Stevens Fishery
19 Conservation Act; and

20 (2) consistent with this title.

21 (b) JOINT MANAGEMENT COMMITTEE REC-
22 COMMENDATIONS.—For any year in which both parties to
23 the Agreement approve recommendations made by the
24 joint management committee with respect to the catch
25 level, the Secretary shall implement the approved rec-

1 ommendations. Any regulation promulgated by the Sec-
2 retary to implement any such recommendation shall apply,
3 as necessary, to all persons and all vessels subject to the
4 jurisdiction of the United States wherever located.

5 (c) YEARS WITH NO APPROVED CATCH REC-
6 OMMENDATIONS.—If the parties to the Agreement do not
7 approve the joint management committee’s recommenda-
8 tion with respect to the catch level for any year, the Sec-
9 retary shall establish the total allowable catch for Pacific
10 whiting for the United States catch. In establishing the
11 total allowable catch under this subsection, the Secretary
12 shall—

13 (1) take into account any recommendations
14 from the Pacific Fishery Management Council, the
15 joint management committee, the joint technical
16 committee, the scientific review group, and the advi-
17 sory panel;

18 (2) base the total allowable catch on the best
19 scientific information available;

20 (3) use the default harvest rate set out in para-
21 graph 1 of Article III of the Agreement unless the
22 Secretary determines that the scientific evidence
23 demonstrates that a different rate is necessary to
24 sustain the offshore whiting resource; and

1 (4) establish the United State's share of the
2 total allowable catch based on paragraph 2 of Article
3 III of the Agreement and make any adjustments
4 necessary under section 5 of Article II of the Agree-
5 ment.

6 **SEC. 609. ADMINISTRATIVE MATTERS.**

7 (a) EMPLOYMENT STATUS.—Except for an individual
8 who is an employee (as defined in section 2103 of title
9 5, United States Code), without regard to an appointment
10 under this title, an individual appointed as a United States
11 representative under section 603(a), an alternate United
12 States representative under section 603(b), a scientific ex-
13 pert under section 604(a) or 605(a), or a member of the
14 advisory panel under section 606(a) (other than an indi-
15 vidual described in subsection (b)(2)) shall not be consid-
16 ered to be a Federal employee while serving as such a rep-
17 resentative, alternate representative, scientific expert, or
18 member, except for purposes of injury compensation or
19 tort claims liability as provided in chapter 81 of title 5
20 and chapter 171 of title 28, United States Code.

21 (b) COMPENSATION.—

22 (1) IN GENERAL.—Except as provided in para-
23 graph (2), an individual appointed under this title
24 shall receive no compensation for the individual's
25 service as a representative, alternate representative,

1 scientific expert, or advisory panel member under
2 this title.

3 (2) SCIENTIFIC REVIEW GROUP.—Notwith-
4 standing paragraph (1), the Secretary may employ
5 and fix the compensation of an individual appointed
6 under section 604(a) to serve as a scientific expert
7 on the scientific review group who is not employed
8 by the United States government, a State govern-
9 ment, or an Indian tribal government in accordance
10 with section 3109 of title 5, United States Code.

11 (c) TRAVEL EXPENSES.—Except as provided in sub-
12 section (d), the Secretary shall pay the necessary travel
13 expenses of individuals appointed under this title in ac-
14 cordance with the Federal Travel Regulations and sections
15 5701, 5702, 5704 through 5708, and 5731 of title 5,
16 United States Code.

17 (d) JOINT APPOINTEES.—With respect to the 2 inde-
18 pendent members of the scientific review group and the
19 2 public advisors to the scientific review group jointly ap-
20 pointed under section 604(c), and the 1 independent mem-
21 ber to the joint technical committee jointly appointed
22 under section 605(b), the Secretary may pay up to 50 per-
23 cent of—

24 (1) any compensation paid to such individuals;
25 and

1 (2) the necessary travel expenses of such indi-
2 viduals.

3 **SEC. 610. ENFORCEMENT.**

4 (a) IN GENERAL.—The Secretary may—

5 (1) administer and enforce this title and any
6 regulations issued under this title;

7 (2) request and utilize on a reimbursed or non-
8 reimbursed basis the assistance, services, personnel,
9 equipment, and facilities of other Federal depart-
10 ments and agencies in the administration and en-
11 forcement of this title; and

12 (3) collect, utilize, and disclose such informa-
13 tion as may be necessary to implement the Agree-
14 ment and this title, subject to sections 552 and 552a
15 of title 5, United States Code.

16 (b) PROHIBITED ACTS.—It is unlawful for any per-
17 son to violate any provision of this title or the regulations
18 promulgated under this title.

19 (c) ACTIONS BY THE SECRETARY.—The Secretary
20 shall prevent any person from violating this title in the
21 same manner, by the same means, and with the same ju-
22 risdiction, powers, and duties as though all applicable
23 terms and provisions of the Magnuson-Stevens Fishery
24 Conservation Act (16 U.S.C. 1857) were incorporated into
25 and made a part of this title. Any person that violates

1 any provision of this title is subject to the penalties and
2 entitled to the privileges and immunities provided in the
3 Magnuson-Stevens Fishery Conservation Act in the same
4 manner, by the same means, and with the same jurisdic-
5 tion, power, and duties as though all applicable terms and
6 provisions of that Act were incorporated into and made
7 a part of this title.

8 (d) PENALTIES.—This title shall be enforced by the
9 Secretary as if a violation of this title or of any regulation
10 promulgated by the Secretary under this title were a viola-
11 tion of section 307 of the Magnuson-Stevens Fishery Con-
12 servation Act (16 U.S.C. 1857).

13 **SEC. 611. AUTHORIZATION OF APPROPRIATIONS.**

14 There are authorized to be appropriated to the Sec-
15 retary such sums as may be necessary to carry out the
16 obligations of the United States under the Agreement and
17 this title.

